

**MINUTES OF THE CITY-COUNTY COUNCIL
AND
SPECIAL SERVICE DISTRICT COUNCILS
OF
INDIANAPOLIS, MARION COUNTY, INDIANA**

**REGULAR MEETINGS
MONDAY, AUGUST 29, 2005**

The City-County Council of Indianapolis, Marion County, Indiana and the Indianapolis Police Special Service District Council, Indianapolis Fire Special Service District Council and Indianapolis Solid Waste Collection Special Service District Council convened in regular concurrent sessions in the Council Chamber of the City-County Building at 7:10 p.m. on Monday, August 29, 2005, with President Talley presiding.

Councillor Pfisterer led the opening prayer and invited all present to join her in the Pledge of Allegiance to the Flag.

ROLL CALL

President Talley instructed the Clerk to take the roll call and requested members to register their presence on the voting machine. The roll call was as follows:

29 PRESENT: Abdullah, Borst, Bowes, Boyd, Bradford, Brown, Cain, Cockrum, Conley, Day, Franklin, Gibson, Gray, Keller, Langsford, Mahern, Mansfield, McWhirter, Moriarty, Adams, Nytes, Oliver, Pfisterer, Plowman, Randolph, Salisbury, Sanders, Schneider, Speedy, Talley
0 ABSENT:

A quorum of twenty-nine members being present, the President called the meeting to order.

INTRODUCTION OF GUESTS AND VISITORS

Councillor Gibson recognized Indianapolis Public Schools board member Mary Bush and president Michael Brown. Councillor Oliver recognized Jackie Greenwood, principal of Arlington High School. Councillor Mansfield congratulated Councillor Speedy and his wife, who are expecting their first child. Councillor Cockrum recognized Jim Wade, former chair of the Scarborough Peace Games. Councillor Mahern recognized residents of District 19 in attendance. Councillor Pfisterer wished her husband a happy 18th year Wedding Anniversary. Councillor Gibson recognized former Councillor Frank Short.

OFFICIAL COMMUNICATIONS

The President called for the reading of Official Communications. The Clerk read the following:

TO ALL MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA

Ladies And Gentlemen :

You are hereby notified the REGULAR MEETINGS of the City-County Council and Police, Fire and Solid Waste Collection Special Service District Councils will be held in the City-County Building, in the Council Chambers, on Monday, August 29, 2005, at 7:00 p.m., the purpose of such MEETINGS being to conduct any and all business that may properly come before regular meetings of the Councils.

Respectfully,
s/Steve Talley
President, City-County Council

August 15, 2005

TO PRESIDENT TALLEY AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

Pursuant to the laws of the State of Indiana, I caused to be published in the *Court & Commercial Record* and in the *Indianapolis Star* on Wednesday, August 17, 2005, a copy of a Notice of Public Hearing on Proposal No. 432, 2005, said hearing to be held on Monday, August 29, 2005, at 7:00 p.m. in the City-County Building.

Respectfully,
s/Jean Ann Milharcic
Clerk of the City-County Council

August 17, 2005

TO PRESIDENT TALLEY AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

I have approved with my signature and delivered this day to the Clerk of the City-County Council, Jean Ann Milharcic, the following ordinances:

FISCAL ORDINANCE NO. 90, 2005 - approves an increase of \$910,000 in the 2005 Budget of the Department of Parks and Recreation (Park General Fund and City Cumulative Capital Improvement Fund) to purchase a new facility for park maintenance operations

FISCAL ORDINANCE NO. 91, 2005 - approves an increase of \$50,000 in the 2005 Budget of the Department of Parks and Recreation (Federal Grants Fund) to purchase additional lunches for the 2005 Summer Lunch program, financed by a federal grant from the United States Department of Agriculture

FISCAL ORDINANCE NO. 92, 2005 – approves an increase of \$173,780 in the 2005 Budget of the Department of Parks and Recreation (Federal Grants Fund) to continue after school programs for youth at IPS schools Forest Manor Middle School and Gambold Middle School and will establish after-school programs at Washington Township schools Westlane Middle School and Northview Middle School, financed by federal grants

FISCAL ORDINANCE NO. 93, 2005 – approves an increase of \$1,528,280 in the 2005 Budget of the Department of Public Safety, Police Division (Non-Lapsing Federal Grants Fund) for the following activities: HUD fraud investigations and youth re-entry programs within public housing weed and seed sites; purchase of bullet proof vests; technology upgrades including computers and dictation units; supplies and equipment for SCUBA, SWAT and the Emergency Response Group; upgraded building security; Hispanic/Latino youth outreach programs; weed and seed crime data collection; Marion County Sheriff's security training; and continuation of funding for deputy prosecutors in Juvenile and Community Prosecution units of the Marion County Prosecutor's Office, financed by grants from the federal departments of Justice and Housing and Urban Development

FISCAL ORDINANCE NO. 94, 2005 - approves an increase of \$4,688,087 in the 2005 Budget of the Department of Public Safety, Emergency Management Division (Non-Lapsing Federal Grants Fund) to

transfer funds between characters for an existing Homeland Security First Responder grant and to appropriate funds for a new grant to improve the communications capabilities and enhance prevention, response and recovery from a potential terrorist attack within Marion County, funded by a grant from the US Department of Homeland Security, State Domestic Preparedness Equipment Program

FISCAL ORDINANCE NO. 95, 2005 – approves an increase of \$881,186 in the 2005 Budget of the Department of Public Safety, Fire Division (Federal Grants and Non-Lapsing Federal Grants Funds) to fund the Urban Search & Rescue Task Force for 2005-2006, including program staffing and management, medical screening for task force personnel, training, equipment storage and maintenance, and travel, financed by a grant from the Department of Homeland Security/Federal Emergency Management Agency and transfers between characters

FISCAL ORDINANCE NO. 96, 2005 - approves an increase of \$35,349 in the 2005 Budget of the Marion County Public Defender Agency (State and Federal Grants Fund) to pay for sentencing consultants, evaluations client services assistant coordinator (part-time position) and travel expense, funded by a grant from the Indiana Criminal Justice Institute

FISCAL ORDINANCE NO. 105, 2005 - transfers and appropriates \$34,526 in the 2005 Budget of the Department of Public Works, Fleet Services Division (Consolidated County Fund) to purchase mobile heavy duty vehicle lifts used to maintain fire apparatus and other heavy equipment, financed by a refund of a prior year purchase that is now in the fund balance

FISCAL ORDINANCE NO. 106, 2005 - approves an increase of \$2,000,000 in the 2005 Budget of the Department of Public Works, Engineering Division (Non-Lapsing Federal Grants Fund) to make infrastructure and streetscape improvements on 16th Street from Stadium Drive to Alonzo Watford Sr. Drive, financed by an appropriation from the federal government

FISCAL ORDINANCE NO. 107, 2005 - transfers and appropriates \$1,250,000 in the 2005 Budget of the Department of Public Works, Fleet Services Division (Consolidated County Fund) to pay additional costs for motor vehicle fuel due to rising fuel prices, financed by a transfer between characters and fund balance

FISCAL ORDINANCE NO. 108, 2005 - approves an increase of \$10,000,000 in the 2005 Budget of the Department of Public Works, Engineering Division (Non-Lapsing Federal Grants Fund) to design and build a new interchange at Washington Street and I-65/I-70 and to remove the Market Street ramp access bridge to I-65/I-70, financed by an appropriation from the federal government

FISCAL ORDINANCE NO. 109, 2005 - approves an increase of \$200,000 in the 2005 Budget of the Department of Public Works, Policy Planning Division (Non-Lapsing Federal Grants Fund) to retrofit diesel-powered buses owned by the Indianapolis Public Schools (IPS) and IndyGo, financed by a grant from the Federal Environmental Protection Agency

GENERAL ORDINANCE NO. 70, 2005 – amends the Code establishing a Marion County Early Intervention Planning Council

GENERAL ORDINANCE NO. 71, 2005 – amends the Revised Code provisions regarding the Marion County Criminal Justice Planning Council and the procedures for expenditures from the Drug Free Community Fund

GENERAL ORDINANCE NO. 72, 2005 – adds members to the audit committee and transforms the city internal audit agency into the city-county internal audit agency

GENERAL ORDINANCE NO. 73, 2005 – gives effect to Senate Enrolled Act 307, 2005 and consolidates the human resources divisions of the city and the county

GENERAL ORDINANCE NO. 74, 2005 – amends the current language of the off-leash ordinance to allow for additional dog parks

GENERAL ORDINANCE NO. 75, 2005 – authorizes intersection controls for the Mill Pond Subdivision (District 1)

GENERAL ORDINANCE NO. 76, 2005 - authorizes intersection controls for Eagle Creek Manor (District 1)

GENERAL ORDINANCE NO. 77, 2005 - authorizes intersection controls for Meadowview Farms, Sections 1 & 2 (District 18)

GENERAL ORDINANCE NO. 78, 2005 - authorizes intersection controls for the intersection of Boyd Avenue and Calhoun Street (District 20)

GENERAL ORDINANCE NO. 79, 2005 - authorizes a multi-way stop at the intersection of Murray Street and Parker Avenue (District 20)

GENERAL ORDINANCE NO. 80, 2005 - authorizes parking restrictions on Prague Road between McFarland Road and Roncalli High School (District 24)

GENERAL ORDINANCE NO. 81, 2005 - authorizes intersection controls for the Crystal Lakes South Subdivision (District 25)

GENERAL ORDINANCE NO. 82, 2005 - authorizes intersection controls for the Wildcat Run Subdivision, Sections 4, 5, 6, 8, 9, 10 and 12 (District 25)

GENERAL ORDINANCE NO. 83, 2005 - authorizes intersection controls for the Indian Creek Meadows Subdivision, Section 1 (District 25)

GENERAL ORDINANCE NO. 84, 2005 - authorizes intersection controls for the Waters Edge at Cummins Farm Subdivision, Sections 1 and 2 (District 25)

GENERAL ORDINANCE NO. 85, 2005 - authorizes intersection controls for the Meadow Bend Subdivision, Sections 4 and 5 (District 25)

GENERAL ORDINANCE NO. 86, 2005 - authorizes intersection controls for the Ashland Subdivision, Sections 1 and 2 (District 25)

GENERAL ORDINANCE NO. 87, 2005 - authorizes an increase in the speed limit on Combs Road from County Line Road to Shelbyville Road (District 25)

GENERAL ORDINANCE NO. 88, 2005 - authorizes parking restrictions on 71st Street between Lafayette Road and Lakeside Drive (District 1)

GENERAL ORDINANCE NO. 89, 2005 - authorizes intersection controls for the Crooked Creek Villages West Subdivision, Sections 4, 5, and 6 (District 2)

GENERAL RESOLUTION NO. 6, 2005 - establishes interest in purchasing specified land to consolidate parks maintenance operations

GENERAL RESOLUTION NO. 7, 2005 - establishes interest in purchasing specified land for use as a youth golf facility

GENERAL RESOLUTION NO. 8, 2005 - establishes interest in purchasing additional specified land for use as a youth golf facility

SPECIAL RESOLUTION NO. 52, 2005 – recognizes Maurice and Marilyn Maze for over 75 years of combined service to the Franklin Township Fire Department

SPECIAL RESOLUTION NO. 53, 2005 – recognizes the combined efforts of the Indianapolis Police Department, Indianapolis Fire Department, and Marion County Sheriff's Department in a Congressional Medal of Honor recovery

SPECIAL RESOLUTION NO. 54, 2005 – recognizes the Speedway Public Safety Committee

SPECIAL RESOLUTION NO. 55, 2005 – recognizes the celebration of Indianapolis Life's 100th Anniversary

Respectfully,
s/Bart Peterson, Mayor

President Talley commended Councillors Gibson and Cain on a successful first annual Kids Health Festival and stated that the event hosted over 4,300 visitors. He thanked all of the partners and volunteers that helped make the event a success.

ADOPTION OF THE AGENDA

The President proposed the adoption of the agenda as distributed. Without objection, the agenda was adopted.

APPROVAL OF THE JOURNAL

The President called for additions or corrections to the Journal of August 8, 2005. There being no additions or corrections, the minutes were approved as distributed.

PRESENTATION OF PETITIONS, MEMORIALS, SPECIAL RESOLUTIONS, AND COUNCIL RESOLUTIONS

PROPOSAL NO. 449, 2005. The proposal, sponsored by Councillors Boyd, Gray, Brown, Talley, Moriarty Adams, Keller, Randolph, Gibson, Nytes, Mahern, Sanders, Cain and Conley, recognizes Dr. Eugene White as the new Indianapolis Public Schools Superintendent. Councillor Boyd read the proposal and presented Dr. White with a copy of the document and a Council pin. Dr. White thanked the Council for the recognition. Councillor Boyd moved, seconded by Councillor Gray, for adoption. Proposal No. 449, 2005 was adopted by a unanimous voice vote.

Proposal No. 449, 2005 was retitled SPECIAL RESOLUTION NO. 56, 2005, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 56, 2005

A SPECIAL RESOLUTION recognizing and welcoming Dr. Eugene White as the new IPS Superintendent.

WHEREAS, Dr. Eugene White recently became Superintendent of the Indianapolis Public School system, the largest of eleven school districts which are immediately a part of the Indianapolis-Marion County public school service area; and

WHEREAS, there is a very rapidly growing awareness in the city, state, and nation that economic growth, cultural vitality, and general government and community sustain ability very much depend on the presence of a well educated and enlightened electorate; and

WHEREAS, IPS and the City of Indianapolis share the taxing base of the Indianapolis area, thus making it virtually impossible to isolate the influence and impact of decisions made through school and city governance structures; and

WHEREAS, American democracy best reflects itself and achieves equality for its citizens as it provides quality education to all, thus providing a primary access route to the promises and positive realities of American citizenship; and

WHEREAS, the city and all the school systems, working with business and industry, have combined responsibilities to see that Indianapolis has a well prepared workforce and appreciative patrons and audiences for the city's cultural amenities; and

WHEREAS, the attractiveness of a city to its current and potential citizens, business, and industry, much relates to the educational environment and opportunities; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council congratulates Dr. White on assuming his new position as Superintendent of the Indianapolis Public School System.

SECTION 2. The Council extends its appreciation to all those school system superintendents who are a part of the Indianapolis metropolitan area and who also share community responsibility with the Council.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 450, 2005. The proposal, sponsored by Councillors Talley and Sanders, recognizes Jim O'Donnell and the other USS Indianapolis survivors. Councillor Sanders moved, seconded by Councillor Cockrum, to postpone Proposal No. 450, 2005 until September 19, 2005. Proposal No. 450, 2005 was postponed by a unanimous voice vote.

PROPOSAL NO. 451, 2005. The proposal, sponsored by Councillor Randolph, recognizes Molly Seward as the 2005 Indiana Teacher of the Year. Councillor Randolph moved, seconded by Councillor Nytes, to postpone Proposal No. 451, 2005 until September 19, 2005. Proposal No. 451, 2005 was postponed by a unanimous voice vote.

PROPOSAL NO. 452, 2005. The proposal, sponsored by Councillors Oliver, Talley, Sanders and Conley, recognizes United Water's "Adopt-a-School" program. Councillor Oliver read the proposal and presented representatives with copies of the document and Council pins. Tom Brown, United Water; Derrick Frieson, student intern; Jackie Greenwood, principal of Arlington High School; and Steve Quick, Union president, thanked the Council for the recognition. Councillor Oliver moved, seconded by Councillor Gibson, for adoption. Proposal No. 452, 2005 was adopted by a unanimous voice vote.

Proposal No. 452, 2005 was retitled SPECIAL RESOLUTION NO. 57, 2005, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 57, 2005

A SPECIAL RESOLUTION recognizing United Water's Adopt-A-School Program.

WHEREAS, United Water has put its personnel and financial resources into building a vision of learning. The Adopt-A-School program is a year-round initiative designed to provide individual assistance to students through mentoring, tutoring, and job shadowing; and

WHEREAS, for the twelfth consecutive summer, United Water has offered summer internships to selected Arlington High School juniors, seniors, and recent graduates. Students receive valuable skills and information necessary to make future career and educational decisions; and

WHEREAS, since the inception of this program over 200 students have received valuable training and encouragement to continue their education after high school. By focusing on one school (Arlington), United Water is able to provide better one-on-one mentoring toward the students' development; and

WHEREAS, the Adopt-A-School Program focuses on the importance of good work ethics, a positive attitude, communication, adaptability, teamwork, attention to detail, and attendance; and

WHEREAS, graduating high school interns who successfully complete the program receive a scholarship that is paid directly to their school of choice once the registration process is completed. Underclassmen interns who successfully complete the program are eligible to reapply a second or third time. Based on work performance, students have the opportunity for permanent employment after completion of school; and

WHEREAS, in 2001, the program received recognition by the Indianapolis City-County Council with a special resolution recognizing its "Partnership in Education" in mentoring high school students. In 2002, it also received national attention at the United States Conference of Mayors. United Water and the City of Indianapolis received the Outstanding Achievement Award for the City's outstanding business and school partnership with Arlington High School; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council congratulates United Water and Arlington High School on their successful partnership.

SECTION 2. The Council wishes much future success to all participants.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

August 29, 2005

PROPOSAL NO. 276, 2005. Councillor Moriarty Adams reported that the Public Safety and Criminal Justice Committee heard Proposal No. 276, 2005 on August 10, 2005. The proposal, sponsored by Councillor Gray, reappoints David Hurley to the Animal Care and Control Board. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Moriarty Adams moved, seconded by Councillor Gray, for adoption. Proposal No. 276, 2005 was adopted by a unanimous voice vote.

Proposal No. 276, 2005 was retitled COUNCIL RESOLUTION NO. 72, 2005, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 72, 2005

A COUNCIL RESOLUTION reappointing David Hurley to the Animal Care And Control Board

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Animal Care And Control Board, the Council reappoints:

David Hurley

SECTION 2. The appointment made by this resolution is for a term ending on December 31, 2005 pursuant to Sec. 251-332 of the Revised Code of the Consolidated City and County. The person appointed by this resolution shall serve at the pleasure of the Council or until a successor is appointed and qualifies.

Councillor Nytes reported that the Economic Development Committee heard Proposal Nos. 325 and 326, 2005 on August 9, 2005. She asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 325, 2005. The proposal, sponsored by Councillors Gray, Nytes and Talley, appoints Bruce Melchert to the City Market Corporation board of directors. PROPOSAL NO. 326, 2005. The proposal, sponsored by Councillors Gray, Nytes and Talley, appoints Lynn H. Molzan to the City Market Corporation board of directors. By 6-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass. Councillor Nytes moved, seconded by Councillor Gray, for adoption. Proposal Nos. 325 and 326, 2005 were adopted by a unanimous voice vote.

Proposal No. 325, 2005 was retitled COUNCIL RESOLUTION NO. 73, 2005, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 73, 2005

A COUNCIL RESOLUTION appointing Bruce Melchert to the City Market Corporation board of directors.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the City Market Corporation board of directors, the Council appoints:

Bruce Melchert

SECTION 2. The appointment made by this resolution is for a term ending on December 31, 2006. The person appointed by this resolution shall serve at the pleasure of the Council or until a successor is appointed and qualifies.

Proposal No. 326, 2005 was retitled COUNCIL RESOLUTION NO. 74, 2005, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 74, 2005

A COUNCIL RESOLUTION appointing Lynn H. Molzan to the City Market Corporation board of directors.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the City Market Corporation board of directors, the Council appoints:

Lynn H. Molzan

SECTION 2. The appointment made by this resolution is for a term ending on December 31, 2006. The person appointed by this resolution shall serve at the pleasure of the Council or until a successor is appointed and qualifies.

President Talley stated that he and the General Counsel will be meeting with parties from the rezoning case during the meeting trying to reach a compromise so that a public hearing will not be necessary. He passed the gavel to Vice President Sanders.

INTRODUCTION OF PROPOSALS

PROPOSAL NO. 435, 2005. Introduced by Councillors Sanders, Brown, Talley and Gray. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which approves the Mayor's appointment of Earl S. Morgan, Sr. as the Director of the Department of Administration and Equal Opportunity "; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 436, 2005. Introduced by Councillor Talley. The Clerk read the proposal entitled: "A Proposal for a General Resolution regarding the Marion County Office of Family and Children's request for a short term loan "; and the President referred it to the Community Affairs Committee.

PROPOSAL NO. 437, 2005. Introduced by Councillor Gray. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which requires project sponsors who receive Federal entitlement funds distributed by the Department of Metropolitan Development employ at least ten (10) persons on any such project so funded from the service district of the sponsor"; and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 438, 2005. Introduced by Councillors Gibson, Talley and Sanders. The Clerk read the proposal entitled: "A Proposal for a General Resolution which reviews, modifies and approves the operating budget of the Capital Improvement Board of Managers for fiscal year 2006"; and the President referred it to the Municipal Corporations Committee.

PROPOSAL NO. 439, 2005. Introduced by Councillors Gibson, Talley and Sanders. The Clerk read the proposal entitled: "A Proposal for a General Resolution which reviews, modifies and approves the operating budget of the Indianapolis Airport Authority District for fiscal year 2006"; and the President referred it to the Municipal Corporations Committee.

PROPOSAL NO. 440, 2005. Introduced by Councillors Gibson, Talley and Sanders. The Clerk read the proposal entitled: "A Proposal for a General Resolution which reviews, modifies and

approves the operating budget of the Health and Hospital Corporation for fiscal year 2006"; and the President referred it to the Municipal Corporations Committee.

PROPOSAL NO. 441, 2005. Introduced by Councillors Gibson, Talley and Sanders. The Clerk read the proposal entitled: "A Proposal for a General Resolution which reviews, modifies and approves the operating budget of the Indianapolis Marion County Public Library Board for fiscal year 2006"; and the President referred it to the Municipal Corporations Committee.

PROPOSAL NO. 442, 2005. Introduced by Councillors Gibson, Talley and Sanders. The Clerk read the proposal entitled: "A Proposal for a General Resolution which reviews, modifies and approves the operating budget of the Indianapolis Public Transportation Corporation for fiscal year 2006"; and the President referred it to the Municipal Corporations Committee.

PROPOSAL NO. 443, 2005. Introduced by Councillor Moriarty Adams. The Clerk read the proposal entitled: "A Proposal for a Special Ordinance which elects to fund MECA in 2006 with County Option Income Tax (COIT) revenues "; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 444, 2005. Introduced by Councillors Gray and Moriarty Adams. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Raymond Pierce to the Indianapolis-Marion County Forensic Services Board "; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 445, 2005. Introduced by Councillors Moriarty Adams and Brown. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which increases the amount of fines and late charges for parking tickets and other violations paid through the Ordinance Violations Bureau "; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 446, 2005. Introduced by Councillor Cain. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes intersection controls for the Vineyards of Fall Creek subdivision (District 5)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 447, 2005. Introduced by Councillor Speedy. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes intersection controls for the White Oaks Farms subdivision, section 1 (District 24)"; and the President referred it to the Public Works Committee.

Vice President Sanders stated that there are several Council members missing, and before voting on Priority Business items, she will move ahead to public testimony on the budget and return to these items later in the meeting.

SPECIAL ORDERS - PUBLIC HEARING ON PROPOSED BUDGETS

Vice President Sanders called for public testimony on the following budget ordinances and resolutions, but stated that no action is scheduled to be taken by the Council this evening:

PROPOSAL NO. 409, 2005. The proposal adopts the annual budget for the Police Special Service District for 2006. PROPOSAL NO. 410, 2005. The proposal adopts the annual budget for the Fire Special Service District for 2006. PROPOSAL NO. 411, 2005. The proposal adopts

the annual budget for the Solid Waste Collection Special Service District for 2006. PROPOSAL NO. 412, 2005. The proposal adopts the annual budget for the Metropolitan Emergency Communications Agency for 2006. PROPOSAL NO. 413, 2005. The proposal adopts the annual budget for the Revenue Bonds Debt Service Funds for 2006. PROPOSAL NO. 414, 2005. The proposal adopts the annual budget for the Marion County Office of Family and Children for 2006. PROPOSAL NO. 415, 2005. The proposal adopts the annual budget for Indianapolis and Marion County for 2006.

Mollie Noble, citizen, stated that Noble of Indiana has helped her to become more independent and it should be a big priority.

Robert Yahara, citizen, stated that he appreciates the leadership of the Mayor to meet the needs of citizens and he commends the Council on committing dollars to community service programs to help with a more structured society.

SPECIAL ORDERS - PUBLIC HEARING

PROPOSAL NO. 432, 2005. Vice President Sanders asked Councillor Nytes to make the committee report on Proposal No. 432, 2005. Councillor Nytes reported that the Administration and Finance Committee heard Proposal No. 432, 2005 on April 23, 2005. The proposal, sponsored by Councillors Talley, Sanders and Gray, approves the appropriation of the proceeds of the "City of Indianapolis, Indiana, Limited Recourse County Option Income Tax Revenue Anticipation Notes" in an amount not to exceed Nine Million Five Hundred Thousand Dollars (\$9,500,000). By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended.

Councillor McWhirter asked what gives the Council legal authority to borrow this money across the years. Barbara Lawrence, executive director of the Indianapolis Bond Bank, stated that the bond price statute allows this action and this part of the code has been utilized on several financing projects, such as the Ameriplex. She said that she will be glad to circulate a letter that spells out this explanation.

Councillor Borst said that he does not recall ever using County Option Income Tax (COIT) dollars for this type of borrowing. Ms. Lawrence said that COIT dollars have not necessarily been used, but other tax revenues have been. Councillor Borst said that he does not recall using this type of borrowing to fund operating costs. Ms. Lawrence said that there are challenges to raising COIT to meet the ever increasing needs. She stated that the budget has been cut dramatically and this is a legal viable method to meet those needs. Councillor Borst stated that much of this money has been dedicated for 2007 and 2008, and asked how these funds can be paid back. Ms. Lawrence stated that the initial one-tenth has been dedicated to public safety, but any additional revenues can be used for other needs. Councillor Borst asked if all will be paid back at the same time or if the repayment will be staggered. Ms. Lawrence said that they are still looking at repayment structures. Councillor Borst said that he does not think borrowing money for operating costs is a good way to run government.

Councillor Nytes said that the first one-tenth is committed to the criminal justice system, but the second one-tenth that is expected is available for other use. Councillor Borst stated that he signed the agreement and he believed the overage in COIT would go towards criminal justice for the first two years.

Councillor Keller asked if 100% of the COIT overage will go toward criminal justice as was agreed upon. Vice President Sanders stated that 100% of the first one-tenth is committed to criminal justice needs.

Councillor Salisbury stated that this revenue increased year after year almost \$500,000 until the Mayor was elected, and now the City is facing a \$70 million loss. He asked if this is seen as a way to make up for that loss. Councillor Nytes reminded the Council that approximately four years ago there was a catch-up distribution of COIT dollars, which was followed by a significant drop in COIT revenue. Councillor Salisbury said that he took this aberration into consideration. Vice President Sanders stated that there has also been a downturn in the economy, which has resulted in layoffs, which also affect this revenue source. Robert Clifford, City Controller, stated that the state suffered a great reduction during the recession in 2001 and 2002, and they are projecting a \$12 million increase in COIT even without the first one-tenth of the one percent that is dedicated. He said that COIT revenues are growing and he looks forward to them continuing to grow.

Councillor Schneider said that he is extremely concerned about rolling up debt for operational expenses, and he does not believe this is a fiscally responsible solution.

Councillor Keller asked how the \$9.5 million will be used. Mr. Clifford said that the City and County still maintain separate funds and this is not a one-year fix for the County. It did not make sense to cut the budget in criminal justice and public safety areas where new programs are needed

Vice President Sanders called for public testimony at 8:29 p.m.

Robert Yahara, business owner in Marion County, stated it is fiscally responsible to reduce the \$16 million to \$9.5 million, but this still leaves the City with indebtedness.

Councillor Borst asked how it is that there is such an expected increase and if this is an aberration or a one-time make-up. Mr. Clifford said that the State had eaten into the trust fund and the last couple of years, they have been trying to restore that. He said that the state economy has turned around and there will be approximately a \$12.5 million gross increase. Councillor Borst stated that there is no way of knowing if these increases will continue. Mr. Clifford said that COIT peaked in 2001 and then declined, but the economy has turned around and also drives up these revenues.

Councillor Schneider asked how much this borrowing will cost taxpayers. Ms. Lawrence said that the interest would be approximately \$841,000, with \$250,000 in interest earnings. Therefore, the cost of this borrowing would be approximately \$600,000.

There being no further testimony, Councillor Nytes moved, seconded by Councillor Gray, for adoption. Proposal No. 432, 2005 was adopted on the following roll call vote; viz:

19 YEAS: Abdullah, Bowes, Boyd, Brown, Conley, Franklin, Gibson, Gray, Keller, Langsford, Mahern, Mansfield, McWhirter, Moriarty Adams, Nytes, Oliver, Plowman, Sanders, Talley
10 NAYS: Borst, Bradford, Cain, Cockrum, Day, Pfisterer, Randolph, Salisbury, Schneider, Speedy

SPECIAL ORDERS - UNFINISHED BUSINESS – PUBLIC HEARING

PROPOSAL NO. 387, 2005. The proposal is a rezoning ordinance for Center Township, Councilmanic District 19, 2801 South Pennsylvania Street (approximate address) (2005-ZON-035) Councillor Mahern stated that parties are still negotiating, and he asked for consent to postpone the hearing on this proposal until later in the meeting. Consent was given.

SPECIAL ORDERS - PRIORITY BUSINESS

PROPOSAL NO. 434, 2005. Councillor Mahern reported that the Metropolitan Development Committee heard Proposal No. 434, 2005 on August 22, 2005. The proposal, sponsored by Councillor Mahern, is an inducement resolution for Camby Woods, L.P. in an amount not to exceed \$14,000,000 which consists of the construction of a 220-unit apartment complex to be known as Camby Woods Apartments located at 7700 Camby Road (District 22). By a 4-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Cockrum stated that this project is in his district and the neighbors are opposed to it. He added that there are no IndyGo routes to the areas and for a subsidized housing project this needs to be a consideration.

Councillor Speedy asked for consent to abstain from voting to avoid the appearance of a conflict of interest.

Councillor Keller said that he opposes this proposal because this is the City making loans, and there are other borrowing opportunities for this type of project.

Councillor Nytes said that while she understands Councillor Keller's concerns, this is still a viable and legal funding option. She said that these units will have low market rents, but are not considered subsidized. She said that a wide range of housing opportunities are needed across the County, and there is value in offering low rents in the Decatur Township area.

Councillor Langsford stated that he voted in favor of the project in committee, but must support the District Councillor and his constituents.

Councillor Mahern moved, seconded by Councillor Gray, for adoption. Proposal No. 434, 2005 failed due to an indecisive vote; viz:

*14 YEAS: Abdullah, Bowes, Boyd, Brown, Conley, Franklin, Gibson, Gray, Mahern, Mansfield, Moriarty Adams, Nytes, Oliver, Sanders
13 NAYS: Borst, Bradford, Cain, Cockrum, Day, Keller, Langsford, McWhirter, Pfisterer, Plowman, Randolph, Salisbury, Schneider
2 NOT VOTING: Speedy, Talley*

Councillor Gibson asked if someone can go and ask President Talley to return to the chambers for the vote so that a legal vote can be made. Councillor Schneider stated that the vote was already taken and the board is closed and that would not be legal. Councillor Bowes stated that the board is still open. Councillor Schneider stated that the Vice President already read the vote and called that the vote be closed. Councillor Gray said that the Council Rules state that if a member is in the building, they must vote. Councillor Bowes agreed and said that all members present must vote, and President Talley is present.

Councillor Borst stated that the proposal did not fail, but simply stays on the agenda for the next Council meeting. He said the Vice President clearly asked for the board to be closed.

Councillor Nytes said that there are filing deadlines associated with this proposal and waiting until the next Council meeting will not suffice.

Councillor Boyd stated that if the President were out of the chambers for idle conversation, this might be understandable. However, the President is doing the work of the Council and is engaged in conversations concerning an item on this evening's agenda. He said that some members seem to be taking advantage of the parliamentary process. He asked that the vote be reconsidered since there was a slight malfunction in the talley on the vote which delayed the closing of the board.

Councillor Schneider stated that the Rules of the Council are clear and only a person on the prevailing side can ask for a reconsideration of a vote.

Vice President Sanders asked for a ruling from the parliamentarian regarding a reconsideration. Aaron Haith, General Counsel, stated that the board talley was incorrect due to a malfunction of the machine, and there is some question as to the integrity of the vote. Councillor Schneider stated that the board showed the correct talley when the Vice President read the vote results and closed the board.

Councillor Plowman stated that the Rules of the Council are overlooked all the time and members are sitting at their seats in the chamber and still do not vote, so he does not understand why there is this questioning about allowing a reconsideration for someone who was not in the chamber.

Councillor Borst stated that the Vice President did close the board and announce the correct vote. If the members wanted President Talley to vote, they should have sent a representative to get him before the vote.

Councillor Bowes moved to reconsider the vote. Councillor Schneider stated that Councillor Bowes' motion is out of order. He said that only someone on the prevailing side can ask for a reconsideration, and since the proposal did not pass, the prevailing side would be a negative vote.

Vice President Sanders stated that the vote stands and she did not recognize the motion to reconsider. She returned the gavel to President Talley.

PROPOSAL NO. 453, 2005, PROPOSAL NO. 454, 2005, PROPOSAL NO. 455, 2005 and PROPOSAL NOS. 456-461, 2005. Introduced by Councillor Mahern. Proposal No. 453, 2005, Proposal No. 454, 2005, Proposal No. 455, 2005, and Proposal Nos. 456-461, 2005 are proposals for Rezoning Ordinances certified by the Metropolitan Development Commission on August 11 and 17, 2005. The President called for any motions for public hearings on any of those zoning maps changes. There being no motions for public hearings, the proposed ordinances, pursuant to IC 36-7-4-608, took effect as if adopted by the City-County Council, were retitled for identification as REZONING ORDINANCE NOS. 111-119, 2005, the original copies of which ordinances are on file with the Metropolitan Development Commission, which were certified as follows:

REZONING ORDINANCE NO. 111, 2005

2005-ZON-821

3116 NORTH RITTER AVENUE (Approximate Address), INDIANAPOLIS

WARREN TOWNSHIP, COUNCILMANIC DISTRICT # 17

DANNY UNDERWOOD, by David A. Retherford, requests a rezoning of 3.05 acres, being in the C-7 (FW) District, to the I-3-U (FW) classification to provide for an industrial equipment moving business.

REZONING ORDINANCE NO. 112, 2005

2005-ZON-063

3201 AND 3205 DR. ANDREW J. BROWN AVENUE AND 1430 EAST 32ND STREET (Approximate Addresses), INDIANAPOLIS

CENTER TOWNSHIP, COUNCILMANIC DISTRICT #9.

LAMB OF GOD ASSEMBLY OF THE APOSTOLIC FAITH requests a rezoning of 0.349 acre, being in the C-1 District, to the SU-1 classification to legally establish religious uses.

REZONING ORDINANCE NO. 113, 2005

2005-ZON-020 (Amended)

2050 EAST MICHIGAN STREET (Approximate Address), INDIANAPOLIS

CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 16

BRUCE ALLEN HARTER requests a rezoning of 0.4916 acre, being in the C-2 District, to the C-3C classification to provide for a private club/banquet facility.

REZONING ORDINANCE NO. 114, 2005

2004-ZON-157

5550 BROOKVILLE ROAD (Approximate Address), INDIANAPOLIS

WARREN TOWNSHIP, COUNCILMANIC DISTRICT # 21

WILLIAM J. MARSHALL, by Michael J. Kias, requests a rezoning of 0.55 acre, being in the D-5 District, to the C-5 classification to provide for commercial uses.

REZONING ORDINANCE NO. 115, 2005

2005-ZON-065

1224 NORTH CAPITOL AVENUE (Approximate Address), INDIANAPOLIS

CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 15.

1234 NORTH CAPITOL, LLC, by David Kingen, requests a rezoning of 0.99 acre, being in the I-3-U (W-5) District, to the C-S (W-5) classification to provide for an automotive repair and paint shop, multi-family residential, commercial office, neighborhood commercial, and/or light industrial uses.

REZONING ORDINANCE NO. 116, 2005

2005-ZON-088 (Amended)

9415, 9423, AND 9434 PENDLETON PIKE (Approximate Addresses), CITY OF LAWRENCE

LAWRENCE TOWNSHIP, COUNCILMANIC DISTRICT # 12

GOODLAW, LLC, by Steven R. Hall, requests a rezoning of 0.071 acre, being in the D-A District, to the C-1 classification to provide for the construction of a 2,987-square foot retail/office building, with twelve off-street parking spaces.

REZONING ORDINANCE NO. 117, 2005

2005-ZON-089

5950 SOUTH BELMONT AVENUE (Approximate Address), INDIANAPOLIS

PERRY TOWNSHIP, COUNCILMANIC DISTRICT # 22

ROSE PROPERTIES LLC requests a rezoning of 14.653 acres, being in the I-2-S (W-5) District, to the I-3-S (W-5) classification to provide for a building supply business.

REZONING ORDINANCE NO. 118, 2005

2005-ZON-097

2814-2834 NORTH EUCLID AVENUE (Approximate Addresses), INDIANAPOLIS

CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 10

EVER INCREASING KINGDOM MINISTRIES, by Robert V. Clutter, requests a rezoning of two acres, being in the D-5 District, to the SU-1 classification to provide for religious uses.

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REZONING ORDINANCE NO. 119, 2005

2005-ZON-098

645 SOUTH MERIDIAN STREET (Approximate Address), INDIANAPOLIS

CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 19

JOHN A. HERBST, by David Kingen, requests a rezoning of 0.13 acre, being in the I-3-U (RC) District, to the CBD-2 (RC) classification to legally establish residential uses.

SPECIAL ORDERS - FINAL ADOPTION

PROPOSAL NO. 269, 2005. Councillor Sanders reported that the Administration and Finance Committee heard Proposal No. 269, 2005 on August 23, 2005. The proposal, sponsored by Councillor Plowman, approves a transfer of \$2,301,837 in the 2005 Budget of the Marion County Auditor, Marion County Clerk, Election Board, Voters Registration, Marion County Treasurer, County Assessor, Center Township Assessor, Franklin Township Assessor, Warren Township Assessor, Prosecutor/Child Support Division, Marion County Sheriff, Community Corrections, and Guardian Home to reallocate fringe benefit appropriations from the Auditor's office to various departments. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended. Councillor Sanders moved, seconded by Councillor Nytes, for adoption. Proposal No. 269, 2005 was adopted on the following roll call vote; viz:

27 YEAS: Abdullallah, Borst, Bowes, Boyd, Brown, Cain, Cockrum, Conley, Day, Franklin, Gray, Keller, Langsford, Mahern, Mansfield, McWhirter, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Randolph, Salisbury, Sanders, Schneider, Speedy, Talley

0 NAYS:

2 NOT VOTING: Bradford, Gibson

Proposal No. 269, 2005 was retitled FISCAL ORDINANCE NO. 111, 2005, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 111, 2005

A FISCAL ORDINANCE amending the City-County Annual Budget for 2005 (City-County Fiscal Ordinance No. 137, (b) 2004) transferring and appropriating an additional Two Million Three Hundred One Thousand Eight Hundred Thirty-seven Dollars (\$2,301,837) in the County General Fund for purposes of the Marion County Auditor, Marion County Clerk, Voters Registration, Election Board, Marion County Treasurer, County Assessor, Center Township Assessor, Franklin Township Assessor, Warren Township Assessor, Prosecutor's Child Support Division, Marion County Sheriff, Community Corrections, and Guardian Home and reducing certain other appropriations from the Marion County Auditor's Office.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, (b) of the City-County Annual Budget for 2005 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the Marion County Auditor, Marion County Clerk, Voters Registration, Election Board, Marion County Treasurer, County Assessor, Center Township Assessor, Franklin Township Assessor, Warren Township Assessor, Prosecutor's Child Support Division, Marion County Sheriff, Community Corrections, and Guardian Home to reallocate fringe benefit appropriations from the Auditor's budget to various departments.

SECTION 2. The sum of Two Million Three Hundred One Thousand Eight Hundred Thirty-seven Dollars (\$2,301,837) be, and the same is hereby, transferred for the purposes as shown in Section 3 by reducing the accounts as shown in Section 4.

SECTION 3. The following increased appropriation is hereby approved:

CLERK OF THE CIRCUIT COURT

1. Personal Services-fringes

COUNTY GENERAL FUND

62,985

Journal of the City-County Council

<u>ELECTION BOARD</u>	
1. Personal Services-fringes	10,242
<u>VOTER'S REGISTRATION</u>	
1. Personal Services-fringes	19,954
<u>MARION COUNTY TREASURER</u>	
1. Personal Services-fringes	2,373
<u>COUNTY ASSESSOR</u>	
1. Personal Services-fringes	1,216
<u>CENTER TOWNSHIP ASSESSOR</u>	
1. Personal Services-fringes	944
<u>WARREN TOWNSHIP ASSESSOR</u>	
1. Personal Services-fringes	11,113
<u>FRANKLIN TOWNSHIP ASSESSOR</u>	
1. Personal Services-fringes	2,893
<u>MARION COUNTY PROSECUTOR, CHILD SUPPORT DIVISION</u>	
1. Personal Services-fringes	80,120
<u>MARION COUNTY SHERIFF</u>	
1. Personal Services-fringes	610,776
<u>COMMUNITY CORRECTIONS</u>	
1. Personal Services-fringes	10,509
<u>GUARDIAN HOME</u>	
1. Personal Services-fringes	71,000
<u>PUBLIC DEFENDER</u>	
2. Supplies and Materials	50,000
3. Other Services	250,000
<u>COOPERATIVE EXTENSION</u>	
3. Other Services	100,000
<u>MARION COUNTY SUPERIOR COURTS</u>	
3. Other Services	825,000
4. Capital Outlay	40,000
<u>MARION COUNTY SHERIFF</u>	
3. Other Services	<u>152,312</u>
TOTAL INCREASE	2,301,837

SECTION 4. The said increased appropriation is funded by the following reductions:

<u>MARION COUNTY AUDITOR</u>	<u>COUNTY GENERAL FUND</u>
1. Personal Services-fringes	1,471,000
<u>MARION COUNTY COMMISSIONERS</u>	
1. Personal Services-fringes	462
<u>MARION COUNTY CORONER</u>	
1. Personal Services-fringes	7,235
<u>MARION COUNTY SURVEYOR</u>	
1. Personal Services-fringes	9,493
<u>DECATUR TOWNSHIP ASSESSOR</u>	
1. Personal Services-fringes	20,399

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<u>LAWRENCE TOWNSHIP ASSESSOR</u>	
1. Personal Services-fringes	3,579
<u>PERRY TOWNSHIP ASSESSOR</u>	
1. Personal Services-fringes	2,507
<u>PIKE TOWNSHIP ASSESSOR</u>	
1. Personal Services-fringes	25,518
<u>WASHINGTON TOWNSHIP ASSESSOR</u>	
1. Personal Services-fringes	14,378
<u>WAYNE TOWNSHIP ASSESSOR</u>	
1. Personal Services-fringes	2,855
<u>PUBLIC DEFENDER</u>	
1. Personal Services-fringes	199,453
<u>MARION COUNTY PROSECUTOR</u>	
1. Personal Services-fringes	11,594
<u>FORENSIC SERVICES AGENCY</u>	
1. Personal Services-fringes	39,970
<u>MARION COUNTY CIRCUIT COURT</u>	
1. Personal Services-fringes	22,626
<u>MARION COUNTY JUSTICE AGENCY</u>	
1. Personal Services-fringes	118,975
<u>MARION COUNTY SUPERIOR COURT</u>	
1. Personal Services-fringes	<u>351,793</u>
TOTAL DECREASE	2,301,837

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Councillor Moriarty Adams reported that the Public Safety and Criminal Justice Committee heard Proposal Nos. 348 and 349, 2005 on August 23, 2005. She asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 348, 2005. The proposal, sponsored by Councillors Borst and Moriarty Adams, creates a new nonreverting fund to be known as the "Marion Superior Court Donation Fund." PROPOSAL NO. 349, 2005. The proposal, sponsored by Councillors Borst and Moriarty Adams, creates a Marion Superior Court petty cash fund. By 7-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass as amended. Councillor Moriarty Adams moved, seconded by Councillor Borst, for adoption. Proposal Nos. 348 and 349, 2005 were adopted on the following roll call vote; viz:

29 YEAS: *Abduallah, Borst, Bowes, Boyd, Bradford, Brown, Cain, Cockrum, Conley, Day, Franklin, Gibson, Gray, Keller, Langsford, Mahern, Mansfield, McWhirter, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Randolph, Salisbury, Sanders, Schneider, Speedy*
0 NAYS:

Proposal No. 348 2005 was retitled GENERAL ORDINANCE NO. 90, 2005, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 90, 2005

PROPOSAL FOR A GENERAL ORDINANCE to amend the "Revised Code" by the addition of a new nonreverting fund to be known as the "Marion Superior Court Donation Fund.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA

SECTION 1. Chapter 135, Article II, Division 4 of the "Revised Code of the Consolidated City and County," regarding Marion Superior Court funds, hereby is amended by the addition of a NEW Section 135-245, to read as follows:

Sec. 135-245. Marion Superior Court Donation Fund

(a) There is hereby created a special fund, to be designated and known as the "Marion Superior Court Donation Fund" in the office of the Marion Superior Court. this fund shall be a continuing, non-reverting fund, with all balances remaining therein at the end of each year. Such balances shall not lapse into the county general fund, or ever be directly or indirectly diverted in any manner to uses other than those stated in this section.

(b) All donations made to the Marion Superior Court Donations Fund, unless there are specific legal restrictions stated in the donation that it is not to be commingled with county funds, shall be deposited in the Marion Superior Court Donations Fund.

(c) The fund shall be administered by the Marion Superior Court and all donations deposited therein shall be used solely for the benefit of the Marion Superior Court, including Probation and the Detention Center. Expenditures from this fund shall be made without appropriation, through the Marion Superior Court cash change fund.

SECTION 2. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 3. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 4. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code 36-3-4-14.

Proposal No. 349 2005 was retitled GENERAL ORDINANCE NO. 91, 2005, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 91, 2005

A GENERAL ORDINANCE amending the Revised Code of the Consolidated City and County to create a Marion Superior Court petty cash fund.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA

SECTION 1. Chapter 135 of the "Revised Code of the Consolidated City and County" be, and is hereby amended by the addition of a new Sec. 135-246 to Division 4 of Article II thereof, to read as follows:

Section.135-246. Marion Superior Court Petty Cash Fund.

(a). Created. Pursuant to IC 36-1-8-3, the council hereby establishes a petty cash change fund in the amount of Four Thousand Dollars (\$4,000) to be placed in the custody of the Marion Superior Court Presiding Judge or his or her designee. The petty cash change fund shall be used by the Marion Superior Court to make purchases on behalf of the Marion Superior Court including Probation and the Detention Center. The petty cash fund shall be funded solely by the Marion Superior Court donation fund.

(b) Administration. The Four Thousand Dollars (\$4,000) for the Marion Superior Court Petty Cash Fund established under this section shall be paid by a warrant drawn on the Marion Superior Court Donation Fund in favor of the Marion Superior Court without the need for an appropriation. The Marion Superior Court Presiding Judge shall account for the fund in the manner as described in IC 36-1-8-3(c), and shall return the entire fund to the appropriate fund whenever there is a change in the custodian or when the fund is no longer needed.

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 393, 2005. Councillor Sanders reported that the Administration and Finance Committee heard Proposal No. 393, 2005 on August 23, 2005. The proposal, sponsored by Councillors Mahern and Talley, approves the expansion of the Professional Sports Development Area (PSDA). By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor McWhirter asked if the Capital Improvement Board owns all of this property already. Chris Rule, representative for Governor Mitch Daniels' office, stated that a small number of parcels are yet to be acquired. Councillor McWhirter asked what happens if those parcels cannot be acquired. Mr. Rule stated that he does not believe there will be a problem acquiring these parcels.

Councillor Sanders moved, seconded by Councillor Mahern, for adoption. Proposal No. 393, 2005 was adopted on the following roll call vote; viz:

29 YEAS: Abdullah, Borst, Bowes, Boyd, Bradford, Brown, Cain, Cockrum, Conley, Day, Franklin, Gibson, Gray, Keller, Langsford, Mahern, Mansfield, McWhirter, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Randolph, Salisbury, Sanders, Schneider, Speedy
0 NAYS:

Proposal No. 393, 2005 was retitled GENERAL RESOLUTION NO. 9, 2005, and reads as follows:

CITY-COUNTY GENERAL RESOLUTION NO. 9, 2005

A GENERAL RESOLUTION approving the expansion of the Marion County Professional Sports Development Area.

WHEREAS, on August 3, 2005, the Metropolitan Development Commission of Marion County, Indiana, acting as the Redevelopment Commission of the City of Indianapolis, Indiana (the "Commission"), adopted its Resolution No. 05-B-015, entitled "Resolution of the Metropolitan Development Commission of Marion County, Indiana, Acting as the Redevelopment Commission of the City of Indianapolis, Indiana, Supplementing and Amending Resolution No. 97-D-052, Declaring an Area in Marion County, Indiana as a Professional Sports Development Area and Approving a Development Area Plan" (the "Declaratory Resolution"), declaring a certain geographical area located within the City of Indianapolis, Indiana, as an expansion to the existing Marion County Professional Sports Development Area (the "Original Tax Area" and, as expanded, the "Expanded Tax Area"), pursuant to the provisions of Indiana Code 36-7-31, as amended (the "Act"), and approving a supplement to the existing Marion County Professional Sports Development Area Plan prepared in connection with the Original Tax Area; and

WHEREAS, on August 17, 2005, it is anticipated that the Commission, following a public hearing thereon upon notice as required by law, will adopt its Resolution entitled "Resolution of the Metropolitan Development Commission of Marion County, Indiana, Acting as the Redevelopment Commission of the City of Indianapolis, Indiana, Confirming Resolution No. 05-B-015, Declaring an Area in Marion County, Indiana, as an Expansion to the Marion County Professional Sports Development Area and Approving a Supplement to the Marion County Professional Sports Development Area Plan" (the "Confirmatory Resolution"), confirming in all respects the Declaratory Resolution; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The City-County Council of the City of Indianapolis and of Marion County, Indiana hereby approves the determination of the Commission that the Expanded Tax Area as set forth in the Declaratory Resolution and confirmed by the Confirmatory Resolution is a professional sports development area under the Act.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with Indiana Code 36-3-4-14, 36-3-4-15 and 36-3-4-16.

SPECIAL ORDERS - UNFINISHED BUSINESS – PUBLIC HEARING

PROPOSAL NO. 387, 2005. The proposal is a rezoning ordinance for Center Township, Councilmanic District 19, 2801 South Pennsylvania Street (approximate address) (2005-ZON-035). President Talley stated that no compromise has been reached on the rezoning issue and therefore a public hearing will be necessary. He explained the procedures for the public hearing.

Councillor Bradford stated that he will abstain from voting on this proposal because he has a relationship with the petitioner.

Councillor Mahern stated that he wants to make it clear that he is not against women and children, but has concerns about the size of this facility in this small residential neighborhood. He said that the streets are too narrow and there are no sidewalks and he opposes the project in its current form.

Joseph Scimia, attorney for the petitioner Wheeler Mission, stated that this project is a new facility for the Care Center, which is currently located on North Rural Street. Currently the facility has 66 beds, but there are 75 people in the facility on any given evening. He stated that there is a great need for this service in the community, and the current facility has no programming space available. He said that the property only shares one common boundary with the neighbors and the site has been vacant for over a year. He said that the current building on the site is unfeasible for accommodation. The property owner has lowered the price to entice buyers and still has not had offers. He explained the proposed facility and stated that it has been redesigned to address neighbors' concerns. He added that they will be adding sidewalks around the site and it is adjacent to bus routes. This facility only houses women and children, and there are no men, other than a few staff members. The facility is fully secured. Wheeler Mission has looked at alternative sites, but do not want an institutionalized environment. This is not a treatment facility, and all those sheltered are screened. Paulette Moore, director of the Care Center, stated that the Care Center simply cannot meet the needs of those it shelters in the current facility. She detailed some of the programs the Center offers and said that residents are busy with programs and are not on the streets at night.

David Dumond, attorney for the remonstrator, stated that he lives four blocks from this site. He asked the Council to support the comprehensive plan and the neighbors. He asked several of those opposed to the project to stand. Lindy Stephens, resident in the neighborhood, stated that she was once homeless and was referred to a facility such as this, and had items stolen from her.

She said that she felt safer living in her car. She has invested a lot of money in her new home and this facility will detract from the value and character of her home. She added that there is an element of danger and drugs are available in these types of facilities, whether the staff is aware of it or not. Jenny Bailey, registered nurse, stated that she owns the house next door to this property. She said that because of her medical experience, she knows there are addicts living in these types of facilities. She said that they have invested a lot of money into their property and this facility will decrease its value. She added that the facility is too large for the proposed site and will bring addicts into the neighborhood. There are nine bars in a three to four mile radius, and one is even visible from the site. She said that relapses are inevitable. Tony Cox, professional engineer, stated that he lives within three properties of the proposed site. He said that there have been numerous police runs to the Care Center and these people are first asked to leave the building, which pushes them out into the street and onto the neighbors' doorstep. He said that police runs also bring sirens, lights, noise and commotion to the neighborhood. He said that there were 66 police runs last year, one for every bed. If they double the amount of beds, these runs will also increase. He said that the proposed project will also affect the drainage plan that is proposed for this area. There are other appropriate re-uses for this facility, and there are alternative sites within three blocks of this property which meet all the petitioner's needs. Vicki Waning, resident for 40 years, stated that she does not feel the site is appropriate for this project. She said that she has volunteered at Wheeler Mission and believes in their work, but the neighbors' consensus is that they do not want this in their backyard.

Candace Maximoff, resident of 23 North Rural, stated that addiction is not respecter of status, and anyone can become an addict at any time, and these neighbors may have addicts already living in their community. She said that she was an addict for 30 years, and the Care Center gave her hope.

Charles Goodell, citizen, stated that he owns a business near the proposed site and has invested a lot of money into his building, and feels that this is not a good project for this site at this time.

Bill Morrow, Board Chair of the Coalition for Homelessness Intervention and Prevention (CHIP), stated that the owner of this property has not found anyone to take this empty school building, and the property offers nothing to the neighbors or the city as it stands. The Care Center offers hope to many women and children and is greatly needed, and these citizens are constituents, too.

Ed Mahern, State Representative, stated that District 19 has the jail, the landfill, and an incinerator. While he knows these projects all need to go somewhere, they all seem to end up on the southside. He said that while there is a need for this service, maybe the Care Center should consider smaller group homes instead of a large facility in one location.

Robert Yahara, citizen, stated that the City has signed a 30-year agreement to keep the Colts, yet many of their players and even their owner battle addictions. He said that the City is still willing to trust these addicts with \$30 million. He said that more faith-based organizations like this one are needed to fight the demon of addiction.

Anna McWilliams, citizen, stated that this property is too small for the facility and the road is too narrow. While centers like this are needed, they are not right for such a small neighborhood.

Mr. Scimia stated that the Department of Metropolitan Development (DMD) staff report indicates that special uses such as this one are not really dealt with in the comprehensive plans, and are instead dealt with on a case-by-case basis. He said that this is not a residential area and the comprehensive plan recommends commercial office space for this site, which allows for assisted

living centers and nursing homes. He said that the DMD staff and the Metropolitan Development Commission (MDC) support this project.

Mr. Cox stated that the proposal is well above the recommended density for this property and many people are already putting their homes on the market because they think this project will move forward. Mr. DuMond thanked Wheeler Mission for their courtesy to the remonstrators and said that this project is asking a small neighborhood to pay the price of solving a social problem for the entire county. He said that the residents fear for their safety, their property values, and their quality of life.

Councillor Keller stated that his district houses the Women's Prison, but this facility does not affect property values in Woodruff Place. He referred to a letter from Reverend Michael Bowling, the minister of the church which is next door to the current Care Center, where he states that the Care Center has been a good neighbor and there have not been problems as what this new neighborhood fears. He said that any area could have 66 police runs, and it could have nothing to do with certain houses or facilities in that area and could be problems on the street. He said that he believes this project will not be the problem the neighbors fear.

Councillor Abdullah asked about alternative sites. Mr. Cox stated that there is a site on Madison Avenue with all the amenities the petitioner seeks already in place. Mr. Scimia stated that they want the facility in a neighborhood and not in a commercial area to foster a more residential environment. He added that these other sites are not available or affordable.

Councillor Langsford stated that he sympathizes with the neighbors, but applauds Wheeler Mission's efforts to fight homelessness. It is unfortunate that the center has fostered such a negative connotation, and he will support the petitioner, as it seems they have made every effort to insure safeguards.

Councillor Mansfield said that she does not consider addicts and alcoholics to be the scourge of society, and she would actually welcome this project in her district, because it would be a better fit. She said that it does, however, seem overwhelming for this small neighborhood. She said that this is a zoning issue, and is not really based on the merit of the project, and she would have liked to see an agreement reached.

Councillor Boyd asked the specific issues that were still being discussed this evening. Mr. Scimia stated that the number of units and size of the facility are the major issues still unresolved. Mr. DuMond agreed and said that the number of people on the property is still the main breaking point.

Councillor Abdullah stated that he is tired of the comprehensive plan being ignored by developers over and over again.

Councillor Pfisterer stated that while Wheeler does a wonderful job, the neighbors have come together to say they do not want this in their community, and she will have to vote to support the neighbors.

Councillor Borst stated that both sides have done a great job, and it is a hard decision. While Wheeler Mission is a great organization and does great things for the community, and members of their board and administration are friends of his, this site is probably not appropriate for this project. He said that his veterinary hospital is only a mile away from this proposed site, and the

property is not really adequate for a 59,000 square foot building next to small homes. He said that this is a quiet, stable neighborhood and he cannot support the project.

Councillor Mahern stated that the size of the project and the number of residents is a large problem. Compromises were discussed before he called the project up for a public hearing, but his calls were not returned. He said that the neighbors are not being unreasonable in asking for compromises.

President Talley stated that a "yea" vote will be a vote to overturn the MDC's decision and deny the project in favor of remonstrators. A "nay" vote will sustain the MDC's decision and grant that the project move forward. The MDC's decision was overturned on the following roll call vote; viz:

22 YEAS: Abdullallah, Borst, Bowes, Boyd, Brown, Cockrum, Day, Franklin, Gray, Keller, Mahern, Mansfield, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Randolph, Salisbury, Sanders, Speedy, Talley
6 NAYS: Cain, Conley, Gibson, Langsford, McWhirter, Schneider
1 NOT VOTING: Bradford

Councillor Sanders reported that the Administration and Finance Committee heard Proposal Nos. 394-396, 2005 on August 23, 2005. She asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 394, 2005. The proposal, sponsored by Councillors Mahern and Day, approves financing for infrastructure for the Brokenburr Redevelopment Project, to be repaid with housing tax increment financing (TIF) proceeds. PROPOSAL NO. 395, 2005. The proposal, sponsored by Councillors Nytes and McWhirter, approves a public purpose grant to Indiana University in the amount of \$41,050 for the purpose of financing educational access programming on the educational access channels of the franchised cable systems in Marion County. PROPOSAL NO. 396, 2005. The proposal, sponsored by Councillors Nytes and McWhirter, approves a public purpose grant to Indiana Reading and Information Service (IRIS), a division of Metropolitan Indianapolis Public Broadcasting, Inc., in the amount of \$20,000 for the purpose of providing radio reading programs for the blind and print-disabled in Marion County. By 7-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass. Councillor Sanders moved, seconded by Councillor Gibson, for adoption. Proposal Nos. 394-396, 2005 were adopted on the following roll call vote; viz:

27 YEAS: Abdullallah, Borst, Bowes, Boyd, Brown, Cain, Cockrum, Conley, Day, Franklin, Gibson, Gray, Keller, Mahern, Mansfield, McWhirter, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Randolph, Salisbury, Sanders, Schneider, Speedy, Talley
0 NAYS:
2 NOT VOTING: Bradford, Langsford

Proposal No. 394, 2005 was retitled GENERAL RESOLUTION NO. 10, 2005, and reads as follows:

CITY-COUNTY GENERAL RESOLUTION NO. 10, 2005

A GENERAL RESOLUTION (i) approving the issuance of limited recourse notes of the Redevelopment District of the City of Indianapolis, Indiana (the "District"), for the purpose of paying the cost of redevelopment, including the construction of certain public infrastructure improvements, in the Barrington Redevelopment Area (the "Barrington Area"), and (ii) approving other matters related thereto.

WHEREAS, pursuant to the provisions of Indiana Code 36-7-15.1, the Metropolitan Development Commission of Marion County, Indiana, acting as the Redevelopment Commission of the City of Indianapolis, Indiana (the "Commission"), has previously created the Barrington Area and designated a portion of the Barrington Area as the "Barrington Ho.T.I.F. Area" as an allocation area for purposes of Indiana Code 36-7-15.1-26 and Indiana Code 36-7-15.1-35 (the "Allocation Area"); and

WHEREAS, on July 20, 2005, the Commission adopted a Preliminary Note Resolution (Resolution No. 05-B-011) (the "Preliminary Note Resolution") pursuant to Indiana Code 5-1.4-8-6 authorizing the issuance of limited recourse notes of the District in an aggregate principal amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000) and maturing not later than five (5) years from the date of issuance thereof (the "Notes"), the principal of and interest on which are payable from the bonds of the District, when and if issued, for the purpose of financing or refinancing the Project (as defined hereinafter), from taxes on real property located in the Allocation Area allocated and deposited in the allocation fund entitled "Barrington Ho.T.I.F. Allocation Area Special Fund" (the "Tax Increment"), and from revenues of the Commission, if any, legally available for the payment of principal of and interest on the Notes, for the purpose of procuring funds to be applied to the cost of redevelopment, including the construction of certain public infrastructure improvements in or serving the Allocation Area, together with expenses associated therewith and expenses in connection with or on account of the issuance of the Notes therefor (collectively, the "Project"); and

WHEREAS, the Notes are currently anticipated to be sold to The Indianapolis Local Public Improvement Bond Bank pursuant to the provisions of Indiana Code 5-1.4; and

WHEREAS, the Commission has requested the approval of the City-County Council for the issuance of the Notes pursuant to Indiana Code 36-3-5-8, and the City-County Council now finds that the issuance of the Notes should be approved; now therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The City-County Council does hereby approve (i) the Preliminary Note Resolution and (ii) the issuance of the Notes of the District upon the terms and conditions set forth herein and in the Commission's Final Note Resolution, payable from proceeds of bonds of the District, when and if issued, to finance or refinance the Project, from Tax Increment and from revenues of the Commission, if any, legally available for the payment of principal of and interest on the Notes, in an aggregate principal amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000), which amount does not exceed the estimated costs of the Project.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with Indiana Code 36-3-4-14, 36-3-4-15 and 36-3-4-16.

Proposal No. 395, 2005 was retitled SPECIAL RESOLUTION NO. 58, 2005, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 58, 2005

PROPOSAL FOR A SPECIAL RESOLUTION approving a public purpose grant to Indiana University in the amount of \$41,050.00 for the purpose of financing educational access programming on the educational access channels of the franchised cable systems in Marion County, Indiana.

WHEREAS, the Cable Franchise Board for the Consolidated City of Indianapolis and Marion County proposes to authorize a public purpose grant in the amount of \$41,050.00 to Indiana University for the purpose of financing educational access programming over the educational access channels of the two franchise cable television systems within Marion County, Indiana (the Grant); and

WHEREAS, Section 181-703 of the Revised Code of the Consolidated City and County requires that all public purpose grants shall be subject to appropriation by the City-County Council; and

WHEREAS, the Grant was appropriated by City-County Fiscal Ordinance No. 132, 2004, Annual Budget for the Consolidated City (the Ordinance); and

WHEREAS, Section 4(c) of the Ordinance requires that sums appropriated therein for public purpose grants shall not be spent until the City-County Council of the City of Indianapolis and Marion County, Indiana, approves the amount and identity of the recipient of each grant; and

August 29, 2005

WHEREAS, the Council now finds that the Grant should be approved; now therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Grant in the amount of \$41,050.00 to Indiana University for the purpose of financing educational access programming on the educational access channels of the franchised cable systems in Marion County, Indiana, is hereby approved. No grant funds shall be used in whole or in part to fund any program which endorses a political candidate or which attempts to promote or influence legislation.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 396, 2005 was retitled SPECIAL RESOLUTION NO. 59, 2005, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 59, 2005

PROPOSAL FOR A SPECIAL RESOLUTION approving a public purpose grant to Indiana Reading and Information Service (IRIS), a division of Metropolitan Indianapolis Public Broadcasting, Inc., in the amount of \$20,000 for the purpose of providing radio reading programs for the blind and print-disabled in Marion County, Indiana.

WHEREAS, the Cable Franchise Board for the City of Indianapolis and Marion County proposes to authorize a public purpose grant in the amount of \$20,000.00 to IRIS to provide radio reading programs for the blind and print-disabled in Marion County, Indiana (the Grant); and

WHEREAS, Section 181-703 of the Revised Code of the Consolidated City of Indianapolis - Marion County requires that all public purpose grants shall be subject to appropriation by the City-County Council, and the Grant was appropriated by City-County Fiscal Ordinance No. 132, 2003, Annual Budget for the Consolidated City (the Ordinance); and

WHEREAS, Section 4(c) of the Ordinance requires that sums appropriated therein for public purpose grants shall not be spent until the City-County Council of the City of Indianapolis - Marion County approves the amount and identity of the recipient of each grant; and

WHEREAS, the Council now finds that the Grant should be approved; now therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Grant in the amount of \$20,000.00 to Indiana Reading and Information Services, a division of Metropolitan Indianapolis Public Broadcasting, Inc., is hereby approved. No grant funds shall be used in whole or in part to fund any program that endorses a political candidate or that attempts to promote or influence legislation.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 397, 2005. Councillor Mahern reported that the Metropolitan Development Committee heard Proposal No. 397, 2005 on August 15, 2005. The proposal, sponsored by Councillors Mahern and Cockrum, amends the Code regarding the Flood Control Zoning Ordinance to update Flood Insurance Rate Maps and fixes a time when the same shall take effect. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Mahern moved, seconded by Councillor Cockrum, for adoption. Proposal No. 397, 2005 was adopted on the following roll call vote; viz:

27 YEAS: *Abduallah, Borst, Bowes, Boyd, Brown, Cain, Cockrum, Conley, Day, Franklin, Gibson, Gray, Keller, Mahern, Mansfield, McWhirter, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Randolph, Salisbury, Sanders, Schneider, Speedy, Talley*

0 NAYS:

2 NOT VOTING: *Bradford, Langsford*

Proposal No. 397, 2005 was retitled GENERAL ORDINANCE NO. 92, 2005, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 92, 2005

METROPOLITAN DEVELOPMENT COMMISSION
DOCKET NO. 05-AO-03

A GENERAL ORDINANCE to amend portions of the "Revised Code of the Consolidated City and County regarding the Flood Control Zoning Ordinance and fixing a time when the same shall take effect.

WHEREAS, IC 36-7-4 establishes the Metropolitan Development Commission (MDC) of Marion County, Indiana, as the single planning and zoning authority for Marion County, Indiana, and empowers the MDC to approve and recommend to the City-County Council of the City of Indianapolis and of Marion County, Indiana ordinances for the zoning or districting of all lands within the county for the purposes of securing adequate light, air, convenience of access, and safety from fire, flood, and other danger; lessening or avoiding congestion in public ways; promoting the public health, safety, comfort, morals, convenience, and general public welfare; securing the conservation of property values; and securing responsible development and growth; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Flood Control District Zoning Ordinance of Marion County, Indiana, Section 735, Article III, of the Revised Code of the Consolidated City and County, (adopted under Metropolitan Development Commission Docket Numbers 70-AO-4, as amended), as amended, pursuant to IC 36-7-4, be further amended by the deletion of the language that is stricken-through and by the addition of the language which is underscored, to read as follows:

Sec. 735-300. Establishment of official zoning map; establishment of secondary flood control districts.

(a) Establishment of the official zoning map.

- (1) The county is divided into zoning districts, as shown on the official zoning map, which together with all explanatory matter thereon, is adopted by reference and declared to be a part of all zoning ordinances for Marion County, Indiana.
- (2) The official zoning map shall be maintained in electronic form, and depicted in various formats and scales as appropriate to the need. The director of the department of metropolitan development shall be the custodian of the official zoning map.
- (3) When changes are made in zoning district boundaries, such changes shall be made on the official zoning map promptly after the amendment has been adopted in accordance with IC 36-7-4-600 Series.
- (4) No changes shall be made to the official zoning map except in conformity with the requirements and procedures set forth in the zoning ordinance and state law.

(b) Establishment of flood control districts. The following secondary flood control districts for Marion County, Indiana, are hereby classified, divided and zoned into such districts as designated on the official zoning map:

Flood Control Zoning Districts
Floodway (secondary)
Floodway Fringe (secondary)

Zoning District Symbols
FW
FF

(c) The district boundaries have been established from hydrological data delineated on flood insurance rate maps provided by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Marion County, Indiana, and Incorporated Areas," dated ~~January 5, 2001~~ July 5, 2005 (and as subsequently amended). Topographic-based floodplain maps which may be developed by the city and approved for use by FEMA may be used as best available data to supplement FEMA's flood insurance rate maps, in accordance with FEMA and IDNR procedures and regulations. These maps contain zone AE floodplain areas for which floodway district boundaries and base flood elevations are provided, zone AH floodplain areas for which base flood elevations are provided, zone AO floodplain areas for which base flood elevations are not provided, and zone A floodplain areas for which floodway district boundaries and base flood elevations are not provided. Each of the aforementioned maps also contain shaded zone X floodplain areas which depict areas subject to flooding in the headwaters of a stream, the five hundred-year frequency floodplain collar outside of the one-hundred-year frequency zone AE area, and land subject to shallow flood depths of less than one (1) foot. The district boundaries and base flood elevations for mapped areas shall be determined as follows:

- (1) Zone AE: The floodway fringe (FF) zone district boundary is determined by applying the base flood elevations from the flood insurance study base profiles to the specific topography of a site/parcel/property. The floodway (FW) district boundary is determined from the flood insurance rate map. The base flood elevation shall be determined from the flood insurance study base flood profile, and is rounded up to the nearest one-half (1/2) foot elevation.
- (2) Zone AH and zone AO: In zone AH floodplain areas, the base flood elevation shown on the flood insurance rate map shall be used. In zone AO areas, the base flood elevation shall be determined by adding the depth number specified in feet on the flood insurance rate map (two (2) feet, if no depth number is specified) to the highest ground elevation at the site.
- (3) Zone A: Because this mapped area depicts only the approximate base flood boundary, the floodway (FW) district boundary, floodway fringe (FF) district boundary, and base flood elevation must be established through a site-specific engineering analysis using a method acceptable to DMD or a floodplain recommendation letter issued by IDNR containing specific reference to the site in question. It is the responsibility of the applicant applying for a floodplain development permit to provide the requisite engineering analysis to DMD or to obtain a floodplain recommendation letter from IDNR.
- (4) Zone X: Zone X areas (shaded or unshaded) are not designated by FEMA as special flood hazard areas and are not regulated by this article.

(d) Detailed hydrological data may not be available on the aforementioned maps for certain portions of the floodway and floodway fringe districts. In such cases, an owner of land or applicant for a floodplain development permit shall be required to request a determination of district boundaries and appropriate flood protection grade from the IDNR and the appropriate district regulations shall apply. In the event IDNR lacks sufficient data, DMD shall determine which type of flood control district the site is located in and the appropriate flood protection grade and limitations applicable to that district. If DMD lacks sufficient data to make this determination, the applicant for the floodplain development permit shall be required to submit a zoning district boundary determination completed by a registered professional engineer. The procedures by which specific determinations of district boundaries are to be made and incorporated into revisions of the flood insurance rate maps are set forth in section 735-301 of this article.

Sec. 735-301. Changes to district boundaries.

(a) Procedures to change the floodway and floodway fringe district boundaries, with or without an accompanying base flood elevation change, may be initiated in certain circumstances, including but not limited to: Determination of original mapping error; physical change to the landscape such as filling, excavating or grading; modification of a channel or bridge which changes the hydraulic or hydrologic characteristics of the watercourse; availability of better topographic base mapping which more accurately depicts the floodplain limits; and development of detailed hydrological data for previously unstudied zone A areas. In addition, an owner or lessee of property who believes his or her property has been wrongly designated in a particular flood control zoning district may apply for a district boundary change in accordance with this section.

(b) Changes to the floodway (FW) district boundary, floodway fringe (FF) district boundary, and the accompanying base flood elevations must be approved by FEMA through a letter of map revision (LOMR) or letter of map amendment (LOMA) in accordance with procedures established by FEMA, before the revised maps and data shall be used under this article. Detailed study data, developed for sites located in zone A areas pursuant to section 735-300 as best available data, will generally not be

acknowledged by FEMA for flood insurance determinations or result in district boundary revisions unless an official LOMR or LOMA is issued by FEMA which specifies such changes.

(c) DMD shall review all LOMR and LOMA applications for completeness pursuant to FEMA regulations and procedures and verify that the subject project has satisfied the regulatory requirements of this article. Upon verification, DMD shall issue a signed community acknowledgement to the applicant as required by FEMA. If the LOMR or LOMA application is based on a channel improvement or other physical change to the floodplain which requires continual operation and maintenance as a condition of the issuance of the LOMR or LOMA by FEMA, DMD may require the applicant to enter into an agreement with DMD to provide such operation and maintenance.

(d) Any changes in the floodway district boundary must be reported to FEMA by the applicant within six (6) months of construction with a copy forwarded to DMD. DMD shall be responsible for maintaining up-to-date floodplain maps including any amending LOMRs and LOMAs and shall coordinate efforts with IDNR, FEMA and applicants to solve mapping conflicts using the best available hydrologic, hydraulic and topographic data.

(e) By reference the Metropolitan Development Commission and the city-county council must acknowledge all floodway (FW) and floodway fringe (FF) district boundary relocations and base flood elevation revisions approved by FEMA through the issuance of LOMR and LOMAs as changes to the official zoning map.

(f) All letters of map amendment (LOMA) and letters of map revisions (LOMR) approved and issued by the Federal Emergency Management Agency (FEMA) from September 2, 1992 until ~~January 5, 2004~~ July 5, 2005 shall be incorporated as map amendments to the applicable flood control districts boundaries (said letters [LOMA and LOMR] are incorporated by reference and made a part of this article).

Sec. 735-302. General regulations applicable to all districts.

The following regulations shall apply to all land within any flood control district:

- (1) From and after October 4, 1971:
 - a. No land, watercourse, building, structure, premises or part thereof shall be used or occupied except in conformity with these regulations and for uses permitted by this article.
 - b. No land, watercourse, building, structure, premises, use or part thereof shall be constructed, erected, converted, enlarged, extended, reconstructed, relocated, altered, improved, or repaired except in conformity with these regulations and for uses permitted by this article.
- (2) No land alteration, watercourse alteration, open land use, legally established nonconforming use, or structure as defined in this article shall be constructed, erected, placed, converted, enlarged, extended, reconstructed, improved, repaired, restored, or relocated until a floodplain development permit is issued for the proposed activity as required by this article.
- (3) Application for a floodplain development permit shall be made on a form provided by DMD. The application shall be accompanied by drawings of the site drawn to scale which depict the proposed activity in a manner adequate for DMD to determine compliance with this article. At a minimum, the site plan shall show: All existing and proposed structures; existing and proposed contours (if the proposed activity includes land alteration or watercourse alteration), the governing base flood elevation for the site (including the source of the base flood elevation value); and the proposed flood protection grade elevation (if the proposed activity requires a specified flood protection grade under this article).

Site plans for all platted subdivisions shall also include a delineation of the existing and proposed floodway and floodway fringe boundaries; a flood protection grade denoted for each building pad; and, for each lot located in a flood control district, a plan note identifying the flood control district in which it is located and the requirements and limitations imposed under this article for construction on the floodplain lot.

Plans for proposed activities requiring a specified flood protection grade under this article, which involve land or watercourse alterations, or involve floodproofing of a structure, shall be certified by a professional engineer, professional surveyor, or professional architect as defined by this article.

- (4) An application fee shall be charged for the processing of a floodplain development permit application. A fee schedule shall be developed by DMD for categories of proposed activities sufficient to recover the cost of processing applications.
- (5) A floodplain development permit shall not be issued for any proposed activity until all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
- (6) DMD shall require that an NFIP elevation certificate be completed by a professional engineer, professional architect or professional surveyor for each new structure, substantial addition, substantial improvement, or restoration of substantial damage located in a flood control district, as required by FEMA. DMD shall supply each applicant for a floodplain development permit with a blank NFIP elevation certificate during the DMD's floodplain development permit review process. The applicant shall have a professional engineer, professional architect or professional surveyor complete the NFIP elevation certificate, showing the as-built flood protection grade and lowest adjacent grade to the structure, and other information required in the form. The applicant shall deliver a signed and completed NFIP elevation certificate to DMD within ten (10) calendar days after completion of construction of the lowest floor grade, and before DMD completes the final site inspection.

DMD shall require that a floodproofing certificate, if required by section 735-302(2)a be completed by a professional engineer or professional architect for each new structure, substantial addition, substantial improvement or restoration of substantial damage located in a flood control district, as required by FEMA. DMD shall supply each applicant for a floodplain development permit with a blank floodproofing certificate during the DMD's floodplain development permit review process. The applicant shall have a professional engineer or architect complete the floodproofing certificate showing the as-built flood protection grade as provided by the floodproofing measures constructed, and other required information on the form. The applicant shall deliver a signed and completed floodproofing certificate to DMD within ten (10) calendar days after completion of construction of the structural floodproofing and before DMD completes the final site inspection.

DMD shall not perform the final inspection of construction involving a new building or addition to a building requiring an elevation certificate or floodproofing certificate until it has received notification that a properly completed elevation certificate or floodproofing certificate has been submitted to DMD. Failure to submit a properly completed elevation certificate, or floodproofing certificate if applicable, shall result in the issuance of a stop work order on the project by DMD, revocation of the floodplain development permit by DMD, or both.

- (7) DMD shall make all determinations and obtain all data in accordance with FEMA standards at 44 CFR 60.3. The permit applicant is responsible for supplying data to DMD that is required by FEMA.
- (8) The Metropolitan Development Commission hereby delegates authority to DMD to perform all functions relating to the review of applications for issuance of floodplain development permits, in accordance with this article.
- (9) All new construction and substantial improvements shall:
 - a. Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. Be constructed with materials resistant to flood damage;
 - c. Be constructed by methods and practices that minimize flood damages; and
 - d. Be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

- (10) A floodplain development permit shall not be issued for proposed activity in zone A or zone AH or zone AO until the floodway and floodway fringe district boundaries and base flood elevation are established in accordance with section 735-300(b).
- (11) The approval of a floodplain development plan by the permit division under this section shall be valid for a period of one (1) year from the date such approval was granted, or until the floodplain development permit for which the plan was submitted was issued, whichever occurs first. However, prior to the issuance of the permit, if there are any material changes to an approved floodplain development plan or circumstances which cause the floodplain development plan to be inaccurate or incomplete, then a new or corrected floodplain development plan shall be submitted to the department as a precondition for obtaining a floodplain development permit.
- (12)
 - a. A floodplain development permit may be transferred with the approval of the division of compliance to a person, partnership or corporation which would be eligible to obtain such floodplain development permit in the first instance (hereinafter called "transferee"), after both the payment of a fee specified in the rules and procedures of the Metropolitan Development Commission and the execution and filing of a form furnished by the division of compliance. Such transfer form shall contain, in substance, the following certifications, release and agreement:
 1. The person who obtained the original floodplain development permit or a person who is employed by and authorized to act for the obtainer (hereinafter called "transferor") shall:
 - i. Certify under penalties for perjury that such person is familiar with construction activity accomplished pursuant to the floodplain development permit; such person is familiar with the floodplain development standards and procedures applicable to the construction activity; and to the best of such person's knowledge, information and belief the construction activity, to the extent performed, is in conformity with all floodplain development standards and procedures; and,
 - ii. Sign a statement releasing all rights and privileges secured under the floodplain development permit to the transferee.
 2. The transferee shall:
 - i. Certify that the transferee is familiar with the information contained in the original floodplain development permit application, the detailed plans and specifications, the plot plan and any other documents filed in support of the application for the original floodplain development permit;
 - ii. Certify that the transferee is familiar with the present condition of the premises on which construction activity is to be accomplished pursuant to the floodplain development permit; and,
 - iii. Agree to adopt and be bound by the information contained in the original application for the floodplain development permit, the detailed plans and specifications, the plot plan and other documents supporting the original floodplain development permit application; or in the alternative, agree to be bound by such application plans and documents modified by plan amendments submitted to the division of compliance for approval.
 - b. The transferee shall assume the responsibilities and obligations of and shall comply with the same procedures required of the transferor and shall be subject to any written orders issued by DMD.
 - c. A permit or design approval may not be transferred from the specified location to another location.
- (13) Expiration of floodplain development permits by operation of law.
 - a. If construction activity, other than activity involving the removal of all or part of a structure, has not been commenced within one hundred eighty (180) days from the date of issuance of the floodplain development permit, the permit shall expire by operation of law and shall no longer be of any force or effect; provided, however, DMD may, for good cause shown in writing, extend the validity of any such permit for an additional

period which is reasonable under the circumstances, but in no event shall the continuance exceed a period of sixty (60) days. Such extension shall be confirmed in writing.

- b. If the construction activity has been commenced but only partially completed, and thereafter substantially no construction activity occurs on the construction site over a period of one hundred eighty (180) days, the permit shall expire by operation of law and no longer be of any force or effect; provided, however, DMD may, for good cause shown in writing, extend the validity of any such permit for an additional period which is reasonable under the circumstances to allow of construction activity.

Sec. 735-303. FW Floodway District regulations (secondary).

The following regulations, in addition to those in section 735-302, shall apply to all land within the floodway district. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to such land, and in case of conflict, the more restrictive regulations shall apply. The purpose of the floodway district is to guide development in areas identified as a floodway. IDNR, under the authority of the INRC, exercises primary jurisdiction in the floodway district under the authority of IC 14-28-1; however, the city may impose terms and conditions on any floodplain development permit it issues in a floodway district which are more restrictive than those imposed by IDNR regulations.

(a) Permitted uses. The following uses shall be permitted in the floodway district subject to the development standards of section 735-303(b):

- (1) Open land uses.
- (2) Land alterations and watercourse alterations.
- (3) Nonbuilding structures.
- (4) Detached residential accessory structures.
- (5) Improvements, additions, and restoration of damage to legally established nonconforming uses.

(b) Development standards.

- (1) Open land use. An open land use as defined in this article shall be allowed without a floodplain development permit provided that the open land use does not constitute or involve any structure, obstruction, deposit, construction, excavation, or filling in a floodway in accordance with IDNR regulations. Otherwise, proposed open land uses shall require a floodplain development permit in accordance with this subsection.
- (2) Land and watercourse alterations. Land alterations and watercourse alterations as defined in this article shall not result in any new or additional public or private expense for flood protection; shall assure that the flood carrying capacity is maintained and shall not increase flood elevations, velocities, or erosion upstream, downstream or across the stream from the proposed site; and shall not result in unreasonable degradation of water quality or the floodplain environment.

In addition, no floodplain development permit shall be issued for land alterations or watercourse alterations in a floodway unless a certificate of approval for construction in a floodway is first issued by IDNR for the proposed activity, if required pursuant to IC 14-28-1.

- (3) Nonbuilding structures. Nonbuilding structures as defined in this article shall be permitted in a floodway only under the following conditions:
 - a. The nonbuilding structure is designed, located, and constructed such that it is protected from potential damage resulting from flooding up to and including the base flood;
 - b. The nonbuilding structure is designed to resist displacement resulting from hydrostatic, hydrodynamic, buoyant, or debris loading forces associated with flooding up to and including the base flood;
 - c. The nonbuilding structure is designed to minimize potential contamination or infiltration of floodwaters or other potential environmental health or safety hazards associated with flooding up to and including the base flood;
 - d. The nonbuilding structure is designed to minimize the obstruction of floodwaters by such measures as providing flow-through rather than solid fencing, reduction of structure cross-section area perpendicular to the flow path, and placement of the nonbuilding structure away from areas of greater depth or velocities;
 - e. The IDNR has first issued a certificate of approval of construction in a floodway, if applicable pursuant of IC 14-28-1; and

- f. The nonbuilding structure must meet the applicable flood protection grade required by IDNR and FEMA rules.
- (4) Detached residential accessory structures, the total square footage being equal to or less than four hundred (400) square feet, may be erected in a floodway with or without a flood protection grade two (2) feet above the base flood elevation only if the following conditions are met.
- a. The detached structure is constructed or placed on the same lot as an existing primary residential structure and is operated and maintained under the same ownership;
 - b. The detached structure is customarily incidental, accessory and subordinate to, and commonly associated with, the operation of the primary use of the lot;
 - c. The detached structure is no larger than seventy-five (75) percent of the size of the existing primary residential structure;
 - d. The detached structure shall never be used in total, or in part, for habitable space;
 - e. Any electrical wiring and any heating, cooling or other major appliance in the detached structure is located above the base flood elevation and the detached structure is not used for the storage of any substance or chemical which is dangerous or would become dangerous if mixed with water;
 - f. The IDNR has first issued a certificate of approval of construction in a floodway; and
 - g. As a condition to allowing construction of a detached residential accessory structure, DMD may first require the owner to record a statement, in a form approved by DMD, indicating that the detached residential accessory structure shall not, in the future, be used in total, or in part, as habitable space. This shall be a covenant that shall be recorded in the office of the Recorder, Marion County, Indiana, with the property deed and shall be binding on all subsequent owners.
- (5) Legally established nonconforming uses in a floodway (FW) district. Nothing stated in this subsection shall prevent ordinary maintenance or repair of legally established nonconforming uses as defined in this article. The cost of ordinary maintenance and repair of building or structures is not counted toward the fifty (50) percent limit for determining substantial improvement, restoration of substantial damage or substantial addition as defined herein.
- a. Restoration of damage.
- 1. Nonsubstantial damage: A legally established nonconforming use which has been damaged by flood, fire, explosion, act of God, or the public enemy, may be restored to its original dimension and condition provided that the damage is nonsubstantial damage as defined in this article and a certificate of approval of construction in a floodway, if required in accordance with IDNR rules, is first obtained from IDNR.
 - 2. Substantial damage: A legally established nonconforming use which is substantially damaged as defined in this article may only be restored if the following conditions are satisfied:
 - i. The legally established nonconforming use is not a primary residential structure;
 - ii. If required, the applicant for the proposed restored use must first obtain a certificate of approval for construction in a floodway from IDNR;
 - iii. A restored structure must be provided with a flood protection grade at or above the base flood elevation;
 - iv. The design of the foundation of a restored structure must be certified by a professional engineer or professional architect registered in the state of Indiana as being adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood, and constructed with a material that will maintain its structural integrity during and after exposure to floodwaters;
 - v. If the damage to a structure is such that the structure including the foundation is destroyed, the structure must be rebuilt upon the same area of the original foundation and have substantially the same configuration as the destroyed structure, unless the rebuilt structure is proposed to be placed on a site less vulnerable to flood hazards as determined by DMD;
 - vi. The restored or rebuilt structure does not restrict or obstruct the floodway more than the damaged structure; and
 - vii. The damage was not intentionally caused by the owner or occupant;

- viii. The restoration of the structure is begun within one (1) year and completed within two (2) years following the date that the damage occurred.

b. Improvements.

1. Nonsubstantial improvements: A legally established nonconforming use in a floodway (FW) district may undergo a one-time only nonsubstantial improvement. Subsequent improvements shall be subject to the requirements and limitations of this article applicable to substantial improvements.
2. Substantial improvements: A substantial improvement to a legally established nonconforming use in a floodway (FW) district is prohibited.

c. Additions.

1. Nonsubstantial additions: A legally established nonconforming use in a floodway (FW) district may undergo a one-time only nonsubstantial addition provided that:
 - i. The applicant has provided development plans and any other supporting data, as required by DMD, certifying that the proposed addition will not cause any increase in the base flood elevation; and
 - ii. A covenant indicating that "a one-time non-substantial addition to the structure has taken place and that no further additions will be allowed" shall be recorded in the office of the recorder, Marion County, Indiana, with the property deed and shall be binding on all subsequent owners. Subsequent additions shall be subject to the requirements and limitations of this article applicable to substantial additions.
 2. Substantial addition: A substantial addition to a legally established nonconforming use in a floodway (FW) district is prohibited.
- (6) Prohibition of garbage, trash, junk in floodway (FW) district. No use shall involve the storage, accumulation, spreading, dismantling or processing of garbage, trash, junk, or any other similar discarded or waster material.

Sec. 735-304. Floodway Fringe (FF) District regulations (secondary).

The following regulations, in addition to those in section 735-302, shall apply to all land within the floodway fringe district. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to such land, and in case of conflict, the more restrictive regulations shall apply.

The purpose of the floodway fringe district is to guide development in areas subject to potential flood damage, but outside a floodway district.

- (a) Permitted uses. All uses permitted in the applicable primary zoning district shall be permitted in the floodway fringe district, subject to the requirements of this section.

(b) Development standards.

- (1) General. Except as provided in this subsection and subsections (2), (3), (5), (6) and (8) below, no building shall be erected, reconstructed, expanded, structurally altered, converted, used, relocated, restored, or improved unless it is provided with a flood protection grade of at least two (2) feet above the base flood elevation. This flood protection grade may be achieved for nonresidential structures by structural floodproofing. The design and construction shall be certified on a floodproofing certificate by a professional engineer or professional architect registered in the state of Indiana as being adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.

For floodplain development at sites which are elevated with fill, lowest floor levels, including basement floors, shall be provided with a flood protection grade of at least two (2) feet above the base flood elevation. Non-living spaces, such as crawl spaces that are below grade on all sides, shall be provided with a lowest floor level at least equal to the base flood elevation. The flood protection grade as well as all other requirements of this article shall not be applicable to property which has been removed from a flood control district through the issuance of a final LOMR or LOMA by FEMA.

Floodway fringe fill on which a building is to be placed shall be compacted to ninety-five (95) percent of maximum density using the Standard Proctor Test method. The surface of the fill shall extend at least ten (10) feet horizontally from the perimeter of the building before sloping below the base flood elevation. This is a minimum distance which may need to be increased by the designer based on-site conditions. Fill slopes shall be adequately protected from erosion using a method approved by DMD.

- (2) Open land use. Any open land use as defined in this article shall be allowed in a floodway fringe district without a floodplain development permit.
- (3) Land and watercourse alterations. Land alterations and watercourse alterations in a floodway fringe district shall not result in any new or additional public or private expense for flood protection; shall not increase flood elevations or reduce flood carrying capacity; shall not increase velocities or erosion upstream, downstream, or across the stream from the proposed site; and shall not result in unreasonable degradation of water quality or the floodplain environment.
- (4) Nonbuilding structures. Nonbuilding structures as defined in this article shall be allowed in a floodway fringe district only if constructed in a manner that will not impede the flow of floodwater and debris carried by floodwater, and the following conditions are met:
 - a. The nonbuilding structure is designed, located and constructed such that it is protected from potential damage resulting from flooding up to and including the base flood;
 - b. The nonbuilding structure is designed to resist displacement resulting from hydrostatic, hydrodynamic, buoyant, or debris loading forces associated with flooding up to and including the base flood;
 - c. The nonbuilding structure is designed to minimize potential contamination or infiltration of floodwaters or other potential environmental or safety hazards associated with flooding up to and including the base flood;
 - d. The nonbuilding structure is designed to minimize the obstruction of floodwaters by such measures as providing flow-through rather than solid fencing, reduction of structure cross-section perpendicular to the flow path, and placement of the nonbuilding structure away from areas of greater depth or velocities.
 - e. The nonbuilding structure must meet the applicable flood protection grade required by IDNR and FEMA rules.
- (5) Detached residential accessory structures. Detached residential accessory structures larger than four hundred (400) square feet in a floodway fringe district must be provided with a flood protection grade of at least two (2) feet above the base flood elevation. Detached residential accessory structures, the total square footage being equal to or smaller than four hundred (400) square feet may be erected in a floodway fringe district above or below the flood protection grade only if the following conditions are met:
 - a. The detached structure is constructed or placed on the same lot as an existing primary residential structure and is operated and maintained under the same ownership;
 - b. The detached structure is customarily incidental, accessory and subordinate to, and commonly associated with, the operation of the primary use of the lot;
 - c. The detached structure is no larger than seventy-five (75) percent of the size of the existing primary residential structure;
 - d. The detached structure shall never be used in total, or in part, for habitable space;
 - e. Any electrical wiring and any heating, cooling or other major appliance in the detached structure is located above the base flood elevation and the detached structure is not used for the storage of any substance or chemical which is dangerous or would become dangerous if mixed with water; and
 - f. As a condition to allowing a detached residential accessory structure, the DMD may require the owner to record a statement, in a form approved by DMD, indicating that the detached residential accessory structure shall not, in the future, be used in total, or in part, as habitable space. This shall be a covenant that shall be recorded in the Office of the Recorder, Marion County, Indiana, with the property deed and shall be binding on all subsequent owners.
- (6) Attached nonhabitable residential accessory enclosures. Attached nonhabitable accessory enclosures may be constructed in a floodway fringe district as a part of one-family, two-family, or multifamily structures only under the following conditions:

- a. All parts of the building or structure other than the attached nonhabitable accessory enclosure shall be erected, constructed, reconstructed, expanded, structurally altered, converted, used or relocated in compliance with this subsection 735-304(b);
 - b. The attached nonhabitable accessory enclosure is attached to or part of the primary residential structure and is operated and maintained under the same ownership;
 - c. The attached nonhabitable accessory enclosure is customarily incidental, accessory and subordinate to, and commonly associated with the use of the primary residential structure;
 - d. The attached nonhabitable accessory enclosure is not used in total or in part as habitable space, but is solely for parking vehicles, building access or storage of materials not covered under standard flood insurance policy;
 - e. As a condition to allowing an attached nonhabitable accessory enclosure, the DMD shall require the owner to record a statement, in a form approved by DMD, indicating that the attached nonhabitable accessory enclosure shall not, in the future, be used in total, or in part, as habitable space. This shall be a covenant that shall be recorded in the Office of the Recorder, Marion County, Indiana, with the deed and shall be binding on all subsequent owners;
 - f. Any electrical wiring and any heating, cooling or other major appliance or equipment in the attached nonhabitable accessory enclosure is located above the base flood elevation and the attached nonhabitable accessory enclosure is not used for the storage of any substance or chemical which is dangerous or would become dangerous if mixed with water; and
 - g. The exterior walls of the attached nonhabitable accessory enclosure shall be constructed with a material which will maintain its structural integrity during and after exposure to floodwaters and be designed to automatically equalize hydrostatic flood forces by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must meet the following minimum criteria:
 - 1. A minimum of two (2) wall openings having a total net area of not less than one (1) square foot for every two (2) square feet of enclosed area subject to flooding shall be provided;
 - 2. The bottoms of all openings shall be no higher than one (1) foot above the flood level of the enclosure or no greater than one (1) foot above grade, whichever is less; and
 - 3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters without reliance on human or electrical activation; and
 - h. Attached nonhabitable accessory enclosures that are also legally established nonconforming uses pursuant to subsection 735-304(b)(8) shall not be subject to the requirements of subsection 735-304(b)(6).
- (7) Manufactured home dwellings, mobile dwellings and recreational vehicles.
- a. Manufactured home dwellings and mobile dwellings that are placed or undergo substantial improvements or substantial additions on sites outside of a mobile dwelling project, in a new mobile dwelling project or subdivision, in an expansion to an existing mobile dwelling project or subdivision, or in an existing mobile dwelling project or subdivision on which a manufactured home dwelling or mobile dwelling has incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home dwelling or mobile dwelling is elevated with a flood protection grade at least two (2) feet above the base flood and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - b. Manufactured home dwellings and mobile dwellings that are placed or undergo substantial improvements or substantial additions on sites in an existing mobile dwelling project or subdivision on which a manufactured home dwelling or mobile dwelling has not incurred substantial damage as the result of a flood, shall be elevated so that either the lowest floor of the manufactured home dwelling or mobile dwelling is elevated with a flood protection grade at least two (2) feet above the base flood or the manufactured home dwelling or mobile dwelling chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to a foundation system to resist flotation, collapse and lateral movement.

- c. Recreational vehicles placed on sites in the floodway fringe for one hundred eighty (180) consecutive days or more shall be subject to the requirements for manufactured home dwellings and mobile dwellings contained in this article. Recreational vehicles placed on sites in the floodway fringe shall not be subject to requirements for manufactured home dwellings and mobile dwellings contained in this article and shall not require a floodplain development permit if the recreational vehicle is either placed on the site for fewer than one hundred eighty (180) consecutive days or is fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- (8) Legally established nonconforming uses. Nothing stated in this subsection shall prevent ordinary maintenance or repair of legally established nonconforming uses as defined in this article. The cost of ordinary maintenance and repair of buildings or structures is not counted toward the fifty (50) percent limit for determining a substantial improvement, restoration of substantial damage or substantial addition as defined herein.

Improvements, additions and restoration of damage to legally established nonconforming uses authorized under this subsection shall not be subject to subsection 735-304(b)(6) of this section.

a. Restoration of damage.

- 1. Nonsubstantial damage: A legally established nonconforming use in a floodway fringe district damaged by flood, fire, explosion, act of God or the public enemy may be restored to its original dimensions and condition provided that the damage is a nonsubstantial damage as defined by this article.
- 2. Substantial damage: A legally established nonconforming use that is substantially damaged may only be restored if the restored structure is provided with a flood protection grade of at least two (2) feet above the base flood elevation.

b. Improvements.

- 1. Nonsubstantial improvements: A legally established nonconforming use in a floodway fringe district may undergo a one-time only nonsubstantial improvement. Subsequent improvements shall be subject to the requirements and limitations of this article applicable to substantial improvements.
- 2. Substantial improvements: A legally established nonconforming use may undergo a substantial addition if the addition is provided with a flood protection grade of at least two (2) feet above the base flood.

c. Additions.

- 1. Nonsubstantial addition: A legally established nonconforming use in a floodway fringe district may undergo a one-time only nonsubstantial addition provided that a covenant indicating that "a one-time non-substantial addition to the structure has taken place and that any subsequent improvements or additions shall be subject to the requirements and limitations of this article applicable to substantial additions" shall be recorded in the office of the recorder, Marion County, Indiana, with the property deed and shall be binding on all subsequent owners.
- 2. Substantial addition: A legally established nonconforming use may only undergo a substantial addition if the addition is provided with a flood protection grade of at least two (2) feet above the base flood elevation.

- (9) Draining of land; altering of watercourses; construction of ponds, lakes, levee, dams. No draining or reclamation of land; altering, widening, deepening or filling of watercourses or drainage channels or ways; construction of ponds, lakes, levees, or dams; or any other changes or improvements of watercourses or drainage channels or ways shall be undertaken in the floodway fringe district unless first approved by the IDNR, if applicable, and any other local, state or federal agencies having jurisdiction over such activity.

- (10) Construction of new access roads. If the proposed activity includes the construction of a new access road between proposed buildings to be located in the floodway fringe district and a public road, and the public road at the intersection with the proposed access road is at or above the base flood elevation, then the proposed access road must also be at or above the base flood elevation along the entire length between any proposed building and the public road. If there is

more than one (1) access road between the public road and any proposed building, only one (1) must provide access at or above the base flood elevation.

Sec. 735-305. Variances.

(a) The Board of Zoning Appeals may only issue a variance to the permitted uses or development standards of the floodway (FW) or floodway fringe (FF) districts if the applicant submits evidence that:

- (1) There exists a good and sufficient cause for the requested variance;
- (2) The strict application of the terms of this article will constitute an exceptional hardship to the applicant;
- (3) The grant of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with other applicable law or ordinances.

(b) The Board of Zoning Appeals may only issue a variance to the permitted uses of development standards of the floodway (FW) or floodway fringe (FF) districts subject to the following conditions:

- (1) No variance for the construction of a new residential structure in a floodway (FW) district may be granted;
- (2) Any variance granted for a use in a floodway (FW) district shall first require a permit from IDNR, if such permit is required by IDNR rules and procedures;
- (3) Variances to the flood protection grade requirements may be granted only when a new structure is to be located on a lot of one-half (1/2) acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection elevation;
- (4) Variances may be granted for the reconstruction or restoration of any structure listed on the National Register of Historic Places or the Indiana State Survey of Historic, Architectural, Archaeological and Cultural Sites, Structures, Districts and Objects, subject to the condition that such variance will not preclude the structure's continued designation as an historic structure and that the variance is the minimum necessary to preserve the historic character;
- (5) All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and
- (6) DMD shall issue a written notice to the recipient of a variance that the proposed construction will be subject to increased risks of life and property and could require payment of increased flood insurance premiums.

Sec. 735-306. Permit application and review procedures; record-keeping.

(a) DMD shall review all applications for a floodplain development permit for all sites which have been identified by DMD as lying in a flood control district. DMD shall verify that the site is in a flood control district by referring to the flood insurance rate map. In cases where the floodplain status of the site cannot be fully determined through the use of these maps, DMD shall use the best available data to determine the floodplain status of the site, in accordance with section 735-300 of this article.

(b) If the permit application is for a site located in an identified floodway (FW) district, then DMD shall direct the applicant to apply to IDNR for a state permit for construction in a floodway. A floodplain development permit shall not be issued for the proposed activity until the IDNR has issued a certificate of approval of construction in a floodway or a letter stating that IDNR approval is not required, and DMD determines that the application complies with all other applicable requirements of this article.

(c) If the permit application is for a site located in a floodway fringe (FF) district, then DMD may approve the application upon compliance with the applicable requirements of this article.

(d) In both floodway (FW) and floodway fringe (FF) districts, DMD will require such modifications to the design and materials of the proposed activity, as DMD may deem appropriate under this article.

(e) In reviewing applications for floodplain development permits for compliance with the requirements of this article, DMD shall assure that all necessary permits related to floodplain management objectives from state, federal, and local agencies have been obtained.

(f) Records of floodplain development permits.

(1) DMD will maintain a file of all floodplain development permits issued in a flood control district.

(2) DMD will make these floodplain development permits available to representatives of FEMA, IDNR and other interested parties.

(g) NFIP elevation certificates.

(1) DMD will file the NFIP elevation certificate, and the floodproofing certificate if applicable, for each building and structure in a flood control district with the floodplain development permit.

(2) DMD will make available to insurance agents and lenders, upon request, copies of the NFIP elevation certificate and the floodproofing certificate to assist in the actuarial rating of the structure for flood insurance purposes.

(h) The applicant shall notify an adjacent community and IDNR prior to any alteration or relocation of a watercourse in a riverine situation and submit copies of such notification to DMD and FEMA.

Sec. 735-307. National flood insurance program regulation.

DMD, during the review of floodplain development permit applications located in identified flood control districts, shall ensure that all national flood insurance program regulations (codified at 44 CFR, Part 60.3) pertaining to state and federal permits, subdivision review, building permit review, floodproofing nonresidential structures, mobile home tie-down standards, utility construction, recordkeeping (including lowest floor elevations), and watercourse alteration and maintenance have been met.

Sec. 735-308. Severability.

If any section, subsection, paragraph, subparagraph, clause, phrase, word, provision or portion of this article shall be held to be unconstitutional or invalid by any court of competent jurisdiction, such holding or decision shall not affect or impair the validity of this article as a whole or any part thereof, other than the section, subsection, paragraph, subparagraph, clause, phrase, provision or portion so held to be unconstitutional or invalid.

Sec. 735-309. Violations.

(a) Construction or development authorized by the floodplain development permit shall proceed according to the requirements of this article, the development plan and supporting documents filed with said permit application, and the conditions of an applicable variance grant to the requirements of this article. If DMD determines that construction or development is proceeding or has proceeded in violation of this article, the development plan or supporting documents, or variance grant, or that the permit was issued in violation of an ordinance or the conditions of such variance grant, DMD may revoke said permit. Written notice of the revocation shall be provided to the permit applicant.

(b) A violation of this article shall be enforceable under Chapter 730, Article V of this Code.

(c) A violation may lead to the cancellation of a standard flood insurance policy. DMD shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by the standard flood insurance policy to be suspended.

Sec. 735-309.5. Effective date.

This article shall be in full force and effect on July 5, 2005 ~~January 5, 2004~~ after its adoption in compliance with I.C. 37-7-4.

Sec. 735-310. Construction of language and definitions.

(a) Construction of language. The language of this article shall be interpreted in accordance with the following regulations:

- (1) The particular shall control the general.
- (2) In the case of any difference of meaning or implication between the text of this article and any illustration or diagram the text shall control.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (5) A "building" or "structure" includes any part thereof.
- (6) The phrase "used for", includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".
- (7) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either/or", the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - c. "Either ... or" indicates that all the connected items, conditions, provisions, or events shall apply singly but not in combination.

(b) Definitions. The words in the text or illustrations of this article shall be interpreted in accordance with the following definitions. The illustrations and diagrams in this section provide graphic representation of the concept of a definition; the illustration or diagram is not to be construed or interpreted as a definition itself.

As-built condition. The state of being of a structure or building immediately following its construction or placement.

Attached nonhabitable accessory enclosure. An enclosed area of a structure below the elevated first floor used solely for parking vehicles, building access or storage which satisfies all requirements for such a structure as set forth in this article.

Base flood. That flood having a peak discharge which can be expected to be equalled or exceeded on the average of once in a hundred-year period, as calculated by a method and procedure which is acceptable to and approved by the IDNR. This flood is equivalent to a flood having a probability of occurrence of one (1) percent in any given year.

Base flood elevation. The site-specific elevation of the water surface of the base flood measured in feet above mean sea level (1929 NGVD or NAVD 1988). In either case, a conversion number shall be included.

Best available data. Information including but not limited to available topographic mapping, survey data, historic flood records, engineering studies, channel ratings, and engineering judgment, used by DMD to make flood control district determinations pursuant to section 735-300 of this article, when detailed floodplain data are not available for a particular site.

Building. Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, or property of any kind, having an enclosed space and a permanent roof supported by columns or walls.

Construction activity. The conduct of land alterations, watercourse alterations, erection, construction, placement, repair, alteration, conversion, maintenance, moving, or remodeling of any new or existing building or structure or any part thereof, or the construction, installation,

extension, repair, alteration, conversion, removal or maintenance of building or structure equipment.

Cost. The actual value of the work to be performed based on a method approved by FEMA.

Detached residential accessory structure. A detached nonhabitable structure which is subordinate to and located no less than six (6) feet from the primary residential structure and which satisfies all local regulations regarding this classification.

Development. Any man-made change to improved or unimproved real estate including, but not limited to, buildings and other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DMD. The Department of Metropolitan Development of the City of Indianapolis.

DPW. The Department of Public Works of the City of Indianapolis.

Elevation certificate. The most recently published official elevation certificate document issued by FEMA.

Existing mobile dwelling project or subdivision. A mobile dwelling project or subdivision for which the construction of facilities for servicing the lots on which the mobile dwellings are to be affixed (including, at a minimum, the installation of utilities, construction of streets and either final site grading or pouring of concrete pads) is completed before ~~the effective date of this article~~ May 15, 1984.

Expansion to an existing mobile dwelling project or subdivision. The preparation of additional sites for an existing mobile dwelling project or subdivision by the construction of facilities for servicing the lots on which the mobile dwellings are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FDP. Floodplain development permit.

FEMA. Federal Emergency Management Agency.

Fifty (50) percent limit. The maximum amount of work allowed in or on a legally established nonconforming use before the work is not eligible for the special allowances provided for restoration of nonsubstantial damage, nonsubstantial improvements and nonsubstantial additions as provided herein. The proposed work shown on an application for a floodplain development permit in or on a legally established nonconforming use shall be evaluated to determine whether the fifty (50) percent limit has been exceeded by taking the ratio of the projected cost of the work divided by the market value before the start of construction of the legally established nonconforming use (excluding the value of the land or detached structures) as a percentage.

Fill. Soil material placed upon the ground, compacted and graded for the purpose of elevating the surface of the ground.

Flood or flooding.

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of rivers, streams, ditches or enclosed drainage systems;
 - b. The unusual and rapid accumulation or runoff of surface waters from any source;
 - c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (1)b of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an

unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1)a. of this definition.

Flood insurance study base flood profile. The base flood elevation profile included in the ~~January 5, 2001~~ July 5, 2005 flood insurance study published by FEMA.

Floodplain. The area adjoining the river or stream which has been or may hereafter be covered by floodwaters.

Floodproofed building. A nonresidential building designed to exclude floodwaters from the interior of that building. All such floodproofing shall be adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.

Floodproofing certificate. The most recently published official document for floodproofing certificate for nonresidential structures issued by FEMA.

Flood protection grade. The elevation of the lowest point in a building at which floodwaters may enter the interior of the building. Such lowest point is defined by the following:

- (1) The lowest floor of the building (if a basement is included, the basement floor is the lowest floor);
- (2) The garage floor, if the garage is the lowest level of the building (except garages which qualify as an allowed nonhabitable attached accessory enclosure);
- (3) The first floor of buildings elevated on pilings or constructed on an above-ground crawl space;
- (4) The floor level of any enclosure below the elevated first floor, including a crawl space that is below the adjoining ground level at all sides unless the enclosure satisfies the requirements for a nonhabitable attached accessory enclosure;
- (5) The level of protection provided to a nonresidential building below which the building is designed to be floodproofed. The design and construction shall be certified on a floodproofing certificate by a professional engineer or a professional architect as being adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.

Floodwater. The water of any lake or watercourse which is above the banks and/or outside the channel and banks of such watercourse.

Floodway. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the base flood of any river or stream.

Floodway fringe. The portion of the regulatory floodplain which is not required to convey the one hundred-year frequency flood peak discharge and therefore lies outside of the floodway.

Habitable space. The enclosed area of any building used for living area including but not limited to bedrooms, bathrooms, kitchens, living rooms, family rooms, dining rooms, recreation rooms, utility rooms and workshops.

Historic structure. Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;
- (2) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

- (3) Individually listed on a state inventory of historic places in accordance with state historic preservation programs which have been approved by the secretary of interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the secretary of the interior; or
 - b. Directly by the secretary of the interior.

IDNR. The Indiana Department of Natural Resources.

INRC. The Indiana Natural Resources Commission.

Land alteration. Any change in the topography of land caused by activities including but not limited to excavation, filling, deposit or stockpiling of materials and construction of ponds, dams, or levees outside of a watercourse. For purposes of this article, land alterations do not include the construction, placement of, or other activities involving buildings or nonbuilding structures, or those activities which are defined as open land use in this article, or ordinary maintenance and repair of an IDNR approved land alteration.

Legally established nonconforming use. Any continuous, lawful land use having commenced prior to the time of adoption, revision or amendment of this article, but which fails, by reason of such adoption, revision, amendment or variance, to conform to the present requirements of the flood control zoning district.

LOMA. Letter of map amendment issued by FEMA.

LOMR. Letter of map revision issued by FEMA.

Manufactured home dwelling. A unit which is fabricated in one (1) or more modules at a location other than the home site, by assembly line type production techniques or by other construction methods unique to an off-site manufacturing process. Every module shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards. The unit must have been built after January 1, 1981, have at least nine hundred fifty (950) square feet of main floor area (exclusive of garages, carports, and open porches), and exceed twenty-three (23) feet in width.

Market value of structure. The market value of the structure itself, not including the associated land, landscaping or detached accessory structures. The market value must be determined by a method approved by FEMA and DMD. If an appraisal is used, the appraiser must have at least one (1) of the following designations:

- (1) Member of the American Institute of Real Estate Appraisers (MAI);
- (2) Residential member of the American Institute of Real Estate Appraisers (RM);
- (3) Senior real estate analyst of the Society of Real Estate Appraisers (SREA);
- (4) Senior residential appraiser of the Society of Real Estate Appraisers (SREA);
- (5) Senior real property appraiser of the Society of Real Estate Appraisers (SRPA);
- (6) Senior member of the American Society of Appraisers (ASA);
- (7) Accredited rural appraiser of the American Society of Farm Managers and Rural Appraisers (ARA); or
- (8) Accredited appraiser of the Manufactured Housing Appraiser Society.

Mobile dwelling. A movable or portable unit fabricated in one (1) or more modules at a location other than the home site, by assembly line type production techniques or by other construction methods unique to an off-site manufacturing process. The unit is designed for occupancy by one (1) family, and erected or located as specified by section 536-831 et seq. of this Code, and which was either:

- (1) Constructed prior to June 15, 1976, and bears a seal attached under Indiana Public Law 135, 1971, certifying that it was built in compliance with the standards established by the Indiana Administrative Building Council; or
- (2) Constructed subsequent to or on June 15, 1976, and bears a seal certifying that it was built in compliance with the Federal Mobile Home Construction and Safety Standards Law.

Mobile dwelling project or subdivision. An area of contiguous land separated only by a street(s) upon which three (3) or more mobile dwellings are designated spaces or lots for the purpose of being occupied as primary residences and includes all real and personal property used in the operation of such mobile dwelling project; or an area of contiguous land separated only by a street that is subdivided and contains individual lots which are sold or intended to be sold, leased or similarly contracted for the purpose of being occupied as a primary residence, is a mobile dwelling project if three (3) or more lots or sites are designated specifically to accommodate mobile dwellings.

New mobile dwelling project or subdivision. A mobile dwelling project or subdivision for which the construction of facilities for servicing the lots on which the mobile dwellings are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this article.

NFIP. National flood insurance program.

Nonbuilding structure. Structures other than buildings including but not limited to public utilities, on-site wastewater disposal systems, water supply systems, sanitary sewers, on-site wastewater treatment systems, lift stations, transmission towers, well pumps, electrical units, bridges, culverts, and any other structures determined by DMD to constitute a potential hazard to life, health, safety or property caused by exposure to floodwaters during the base flood.

Nonsubstantial addition. A structural enlargement of a structure, the cost of which is less than fifty (50) percent of the market value of the structure before the start of construction.

Nonsubstantial damage. Damage of any origin sustained by a structure and not intentionally caused or inflicted by the owner or occupant whereby the cost of restoring the structure to its predamaged condition would be less than fifty (50) percent of the market value of the structure before the damage occurred.

Nonsubstantial improvement. Any structural improvement of a structure which does not consist of a structural enlargement or repair of damage, the cost of which is less than fifty (50) percent of the market value of the structure before the start of construction of the improvement. This term does not include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;
- (2) Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure"; or
- (3) Ordinary maintenance and repair as defined herein.

Open land use. The production of crops, pasture, forests, parks, and recreational uses which do not involve any structure, obstruction, construction, excavation or deposit in a floodway as defined by IDNR, or any land alteration or watercourse alteration as otherwise defined in this article. The following specific activities are classified as open land use:

- (1) Excavation of cemetery grave;
- (2) Exploratory excavations or soil testing under the direction and control of professional engineers, soil engineers, geologists, civil engineers, architects or land surveyors, which are backfilled;

- (3) Ordinary cultivation of agricultural land including tilling, construction of minor open ditches, and crop irrigation; and
- (4) The planting and tilling of gardens, flower beds, shrubs, trees and other common uses and minor landscaping of land appurtenant to residences.

Ordinary maintenance and repair. Construction activity commonly accomplished in or on an existing structure or existing building equipment for the purposes of preventing deterioration or performance deficiencies, maintaining appearance, or securing the original level of performance. Preventing deterioration or deficient performance shall include such activities as caulking windows, painting, pointing brick, oiling machinery and replacing filters. Maintaining appearance shall include such activities as sandblasting masonry and cleaning equipment. Securing the original level of performance shall include such activities as replacing broken glass, patching a roof, disassembling and reassembling a piece of building equipment, welding a broken part and replacing a component of a heating system (but not a furnace) with an identical component. Ordinary maintenance and repair shall not include any construction activity which alters the prior or initial capacity, performance, specifications, type or required energy of functional features of an existing structure or building equipment.

Primary residential structure. The residential building in which the permitted primary use of the lot is conducted.

Professional architect. An architect registered under IC 25-4-1.

Professional engineer. An engineer registered under IC 25-31-1.

Professional surveyor. A surveyor registered under IC 31-1-1.

Recreational vehicle. A self-propelled or towed vehicle designed and intended specifically for temporary living, travel, and leisure activities, including but not limited to boats, motor homes, travel trailers, and camping trailers.

Regulatory flood profile. A longitudinal profile along the thread of a stream showing the maximum water surface elevation attained by the base flood.

Residential building. Any building which possesses the architectural features, traits and qualities indicating or constituting those distinguishing attributes of a residence, such as height, bulk, materials, detailing and similar features.

Shaded zone X. Areas between limits of the one hundred-year flood and five hundred-year flood; certain areas subject to one hundred-year flooding with average depths less than one (1) foot or with drainage areas generally less than one (1) square mile; and areas protected by levees from the base flood.

Standard flood insurance policy. The flood insurance policy issued by the federal insurance Administrator, or an insurer pursuant to an arrangement with the Administrator pursuant to federal statutes and regulations.

Standard proctor. The maximum dry density of a backfill material as determined by the methods set forth within ASTM D 698. The percent standard proctor density is a ratio of the in-place dry density of a backfill material, determined by those methods set forth within ASTM D 1556, to the maximum dry density (determined by Test Method 698). The resulting quotient must be multiplied by one hundred (100), and the value obtained must meet or exceed the minimum values specified herein.

Start of construction. The date that a floodplain development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date.

Structure. Anything that can be constructed, altered, repaired or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, detached garages, gas or liquid storage tanks, cabins, manufactured homes, travel trailers to be placed on a site for more than one hundred eighty (180) consecutive days, and other similar items.

Substantial addition. A structural enlargement of the enclosed space of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction.

Substantial damage. Damage of any origin sustained by a structure and not intentionally caused or inflicted by the owner or occupant, whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement. Any structural improvement of a structure which does not consist of a structural enlargement or repair of damage, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. The term does not include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;
- (2) Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure"; or
- (3) Ordinary maintenance and repair as defined herein.

Variance. A grant of relief from the terms of this article.

Violation. The failure of a structure or development or use to be fully compliant with this article. A structure or use or development without the elevation certificate, other certifications, or other evidence of compliance required.

Watercourse. Natural streams, man-made ditches, lakes, reservoirs, ponds, retention or detention basins, and drainage swales. A watercourse is distinguished from overland flow, sheet flow, shallow swale flow, and storm sewer flow by the following characteristics which must be present to constitute a watercourse:

- (1) Defined and distinguishable stream banks under natural conditions; and
- (2) Regularity of flow in the channel evidenced by a distinguishable waterline vegetation limit or hydrologic characteristics.

Watercourse alteration. Any encroachment, diversion, relocation, impoundment, draining, damming, repair, construction, reconstruction, dredging, enclosing, widening, deepening, filling or other modification of a watercourse. Watercourse alteration does not include the clearing of dead or dying vegetation, debris or trash from the channel, nor does it include ordinary maintenance or repair of an IDNR approved watercourse alteration.

Zone A. Areas within the floodplain established by the flood insurance rate maps where no base flood elevation is provided.

Zone AE. Areas within the floodplain established by the flood insurance rate maps where base flood elevations are provided.

Zone AO. Areas within the floodplain established by the flood insurance rate maps that are subject to sheet flow, ponding, or shallow flooding and where base flood depths (feet above grade) are provided.

Zone AH. Areas within the floodplain established by the flood insurance rate maps that are subject to shallow flooding and where base flood elevations are provided.

SECTION 2. General Ordinance No. 64, 2005 be, and hereby is repealed.

SECTION 3. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 4. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end, the provisions of this ordinance are severable.

SECTION 5. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

Councillor Conley reported that the Public Works Committee heard Proposal Nos. 398 and 399, 2005 on August 25, 2005. He asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 398, 2005. The proposal, sponsored by Councillors Conley and Brown, establishes that the Council is interested in purchasing land owned by Eastside Properties, Inc. necessary for intersection improvements at 38th Street and German Church Road. PROPOSAL NO. 399, 2005. The proposal, sponsored by Councillors Conley and Brown, establishes that the Council is interested in purchasing land owned by the Pechette family necessary for intersection improvements at 38th Street and German Church Road. By 7-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass. Councillor Conley moved, seconded by Councillor Moriarty Adams, for adoption. Proposal Nos. 398 and 399, 2005 were adopted on the following roll call vote; viz:

28 YEAS: Abdullallah, Borst, Bowes, Boyd, Brown, Cain, Cockrum, Conley, Day, Franklin, Gibson, Gray, Keller, Langsford, Mahern, Mansfield, McWhirter, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Randolph, Salisbury, Sanders, Schneider, Speedy, Talley

0 NAYS:

1 NOT VOTING: Bradford

Proposal No. 398, 2005 was retitled GENERAL RESOLUTION NO. 11, 2005, and reads as follows:

CITY-COUNTY GENERAL RESOLUTION NO. 11, 2005

A GENERAL RESOLUTION establishing that the City-County Council of the City of Indianapolis and Marion County, Indiana, is interested in making the purchase of specified land.

WHEREAS, the City-County Council of the City of Indianapolis and Marion County, Indiana, ("City-County Council") is the fiscal body of the City of Indianapolis pursuant to IC 36-1-10.5-1, et seq; and

WHEREAS, pursuant to IC 36-1-10.5-5 the City of Indianapolis may purchase land only after the City-County Council passes a resolution to the effect that the City-County Council is interested in making a purchase of specified land; and

WHEREAS, the City of Indianapolis wishes to purchase a particular parcel of real estate located in Marion County, which is described in Exhibit "A", which is attached hereto and incorporated herein, ("Real Estate"), for Intersection Improvements at 38th Street and German Church Road; and

WHEREAS, the City-County Council, having considered the acquisition of the Real Estate and being duly advised, finds that the City-County Council has an interest in acquiring the Real Estate; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

SECTION 1. The City-County Council hereby establishes that the City-County Council has an interest in acquiring the Real Estate described in Exhibit "A" (a copy of which is attached to the official copy of the resolution on file with the Clerk of the Council).

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SECTION 2. For purposes of Revised Code Sec. 151-66 the Real Estate is owned by Eastside Properties, Inc., through a Trustee's Deed which was recorded in the office of the Marion County Recorder on February 02, 1990, as Instrument Number 900010709.

SECTION 3. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 399, 2005 was retitled GENERAL RESOLUTION NO. 12, 2005, and reads as follows:

CITY-COUNTY GENERAL RESOLUTION NO. 12, 2005

A GENERAL RESOLUTION establishing that the City-County Council of the City of Indianapolis and Marion County, Indiana, is interested in making the purchase of specified land.

WHEREAS, the City-County Council of the City of Indianapolis and Marion County, Indiana, ("City-County Council") is the fiscal body of the City of Indianapolis pursuant to IC 36-1-10.5-1, et seq; and

WHEREAS, pursuant to IC 36-1-10.5-5 the City of Indianapolis may purchase land only after the City-County Council passes a resolution to the effect that the City-County Council is interested in making a purchase of specified land; and

WHEREAS, the City of Indianapolis wishes to purchase a particular parcel of real estate located in Marion County, which is described in Exhibit "A", which is attached hereto and incorporated herein, ("Real Estate"), for Intersection Improvements at 38th Street and German Church Road; and

WHEREAS, the City-County Council, having considered the acquisition of the Real Estate and being duly advised, finds that the City-County Council has an interest in acquiring the Real Estate; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

SECTION 1. The City-County Council hereby establishes that the City-County Council has an interest in acquiring the Real Estate described in Exhibit "A" (a copy of which is attached to the official copy of the resolution on file with the Clerk of the Council).

SECTION 2. For purposes of Revised Code Sec. 151-66 the Real Estate is owned by Charles D. Pechette, John C. Pechette, Michael A. Pechette, and Thomas F. Pechette, as tenants in common each holding a 25% interest, through a Warranty Deed which was recorded in the office of the Marion County Recorder on December 26, 1990, as Instrument Number 900132868.

SECTION 3. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Councillor Conley reported that the Public Works Committee heard Proposal Nos. 400-402, 2005 on August 25, 2005. He asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 400, 2005. The proposal, sponsored by Councillor Abdullah, authorizes parking restrictions on Pennsylvania Street between Washington Street and Court Street (District 15). PROPOSAL NO. 401, 2005. The proposal, sponsored by Councillor Day, authorizes parking restrictions on Wade Street near Boyd Avenue (District 20). PROPOSAL NO. 402, 2005. The proposal, sponsored by Councillor Franklin, authorizes intersection controls at 65th Street and Carroll Road (District 12). By 7-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass. Councillor Conley moved, seconded by Councillor Abdullah, for adoption. Proposal Nos. 400-402, 2005 were adopted on the following roll call vote; viz:

28 YEAS: *Abduallah, Borst, Bowes, Boyd, Brown, Cain, Cockrum, Conley, Day, Franklin, Gibson, Gray, Keller, Langsford, Mahern, Mansfield, McWhirter, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Randolph, Salisbury, Sanders, Schneider, Speedy, Talley*

0 NAYS:

1 NOT VOTING: *Bradford*

Proposal No. 400, 2005 was retitled GENERAL ORDINANCE NO. 93, 2005, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 93, 2005

A GENERAL ORDINANCE amending the “Revised Code of the Consolidated City and County,” Sec. 621-124, Parking prohibited during specified hours on certain days.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The “Revised Code of the Consolidated City and County,” specifically, Sec. 621-124, Parking prohibited during specified hours on certain days, be and the same is hereby amended by the deletion of the following, to wit:

**ON ANY DAY EXCEPT
SATURDAYS, SUNDAYS AND HOLIDAYS
From 7:00 a.m. to 6:00 p.m.**

Pennsylvania Street, on the north side, from
Washington Street to Court Street (east leg)

SECTION 2. The “Revised Code of the Consolidated City and County,” specifically, Sec. 621-202, Parking meter zones designated, be and the same is hereby amended by the deletion of the following, to wit:

TWO HOURS

Pennsylvania Street, on the west side, from
Court Street to Ohio Street

Pennsylvania Street, on the west side, from
Washington Street to South Street

SECTION 3. The “Revised Code of the Consolidated City and County,” specifically, Sec. 621-202, Parking meter zones designated, be and the same is hereby amended by the addition of the following, to wit:

TWO HOURS

Pennsylvania Street, on the west side, from
South Street to Ohio Street

SECTION 4. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 401, 2005 was retitled GENERAL ORDINANCE NO. 94, 2005, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 94, 2005

A GENERAL ORDINANCE amending the “Revised Code of the Consolidated City and County,” Sec. 621-121, Parking prohibited at all times on certain streets.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

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SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 621-121, Parking prohibited at all times on certain streets, be and the same is hereby amended by the addition of the following, to wit:

Wade Street, on the north side, from
a point 30 feet east of Boyd Avenue,
to the west termination point of Wade Street

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 402, 2005 was retitled GENERAL ORDINANCE NO. 95, 2005, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 95, 2005

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 441-416, Schedule of intersection controls.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the deletion of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
14	65 th Street & Carroll Rd	65 th Street	Stop

SECTION 2. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the addition of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
14	65 th Street & Carroll Rd	None	4-way Stop

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 433, 2005. Councillor Sanders reported that the Administration and Finance Committee heard Proposal No. 433, 2005 on August 23, 2005. The proposal, sponsored by Councillors Talley, Sanders and Gray, approves the issuance of "City of Indianapolis, Indiana, Limited Recourse County Option Income Tax Revenue Anticipation Notes" in an original aggregate principal amount not to exceed in an amount not to exceed Nine Million Dollars (\$9,000,000). By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended. Councillor Sanders moved, seconded by Councillor Moriarty Adams, for adoption. Proposal No. 433, 2005 was adopted on the following roll call vote; viz:

23 YEAS: *Abduallah, Bowes, Boyd, Brown, Cain, Conley, Day, Franklin, Gibson, Gray, Keller, Langsford, Mahern, Mansfield, McWhirter, Moriarty Adams, Nytes, Oliver, Plowman, Randolph, Sanders, Speedy, Talley*
5 NAYS: *Borst, Cockrum, Pfisterer, Salisbury, Schneider*
1 NOT VOTING: *Bradford*

Proposal No. 433, 2005 was retitled GENERAL ORDINANCE NO. 96, 2005, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 96, 2005

A GENERAL ORDINANCE approving the issuance of "City of Indianapolis, Indiana, Limited Recourse County Option Income Tax Revenue Anticipation Notes" in an original aggregate principal amount not to exceed Nine Million Dollars (\$9,000,000).

WHEREAS, on February 22, 2005, the City-County Council of the City of Indianapolis and of Marion County, Indiana (the "City-County Council") adopted City-County Special Resolution No. 13, 2005, pursuant to which the City-County Council determined to increase the county option income tax rate imposed in accordance with I.C. 6-3.5-6, as amended, by one-tenth of one percent (0.1%) from its current rate of seven-tenths of one percent (0.7%), with such increase to be effective on July 1, 2005; and

WHEREAS, in accordance with I.C. § 5-1.4-8-6, as amended, the City of Indianapolis, Indiana (the "City") (a) desires to issue limited recourse notes, the principal of, and interest on, which will be payable solely from the revenues anticipated to be received by the City in connection with the county option income tax imposed in Marion County, Indiana, under I.C. 6-3.5-6, as amended, including, but not limited to, the county option income tax revenues received by the City as a result of the increase in the county option income tax rate described in the preceding paragraph (collectively, the "COIT Revenues"), the proceeds of which will be used to pay (i) certain operating and capital expenditures identified in the City's annual budget from time to time, (ii) interest on such notes, and (iii) the costs associated, or incurred in connection, with the issuance of such notes, and (b) have such limited recourse notes purchased by The Indianapolis Local Public Improvement Bond Bank (the "Bond Bank") on the terms described in this ordinance and such other terms and conditions as are mutually acceptable to the Mayor of the City (the "Mayor"), the Controller of the City (the "Controller"), the Chair of the Bond Bank and the Executive Director of the Bond Bank; and

WHEREAS, the City-County Council now finds that the issuance of said notes should be approved; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA,

SECTION 1. The City-County Council does hereby approve the issuance to the Bond Bank of limited recourse notes of the City, the principal of, and interest on, which are payable solely from the anticipated COIT Revenues, to be designated as "City of Indianapolis, Indiana, Limited Recourse County Option Income Tax Revenue Anticipation Notes" (the "Notes"). The Notes may be issued in one or more series, with such series designation as determined by the Controller at the time such series of Notes are issued for the proper identification of each series of Notes. The aggregate principal amount of the Notes shall not exceed Nine Million Dollars (\$9,000,000), shall be issued no earlier than January 1, 2006, shall have a final maturity of no later than December 31, 2008, and may be subject to optional redemption prior to final maturity in accordance with the terms and conditions identified in the Qualified Entity Purchase Agreement (as hereinafter defined). The Notes shall bear a maximum interest rate not exceeding six percent per annum (6.00%) (such rate to be determined pursuant to negotiations with the Bond Bank), and will be purchased by the Bond Bank for a purchase price of not less than ninety-nine and one half percent (99.50%) of the face amount of the Notes. The Notes will be issued to the Bond Bank pursuant to the Qualified Entity Purchase Agreement and be subject to the provisions set forth in this ordinance and such additional terms and conditions as agreed to by the Mayor, the Controller, the Chair of the Bond Bank and the Executive Director of the Bond Bank and set forth in the Qualified Entity Purchase Agreement.

SECTION 2. The proceeds of the Notes shall be used to pay (i) certain operating and capital expenditures identified in the City's annual budget from time to time, (ii) interest on the Notes, and (iii) the costs associated, or incurred in connection, with the issuance of the Notes.

SECTION 3. A qualified entity purchase agreement in form and substance acceptable to the Mayor and the Controller (the "Qualified Entity Purchase Agreement"), be, and hereby is, approved, and the Mayor and the Controller are hereby authorized and directed to execute and deliver the Qualified Entity Purchase Agreement in form and substance acceptable to them and consistent with the terms and conditions set forth in this ordinance.

SECTION 4. The Mayor, the Controller and any other officer of the City are hereby authorized and directed, in the name and on behalf of the City, to execute and deliver such documents and to take such actions as such person deems necessary or desirable to effect the purposes of this ordinance, and any such

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documents heretofore executed and delivered and any such actions heretofore taken, be, and hereby are, ratified and approved.

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14, 36-3-4-15, 36-3-4-16 and 36-3-4-17.

ANNOUNCEMENTS AND ADJOURNMENT

The President said that the docketed agenda for this meeting of the Council having been completed, the Chair would entertain motions for adjournment.

Councillor Borst stated that he had been asked to offer the following motion for adjournment by:

- (1) Councillors Boyd, Gray and Randolph in memory of Father Clarence R. Waldon; and
- (2) Councillor Pfisterer in memory of Roger Deppe, Mary Luzar, Sam Oslos, Matthew Dillane and Dick Suekawa; and
- (3) Councillor Oliver in memory of Harvey Ray Anderson, Sr.; and
- (4) Councillors Talley, Sanders, Gray, Nytes, Gibson, Brown, Mansfield, Mahern and Boyd in memory of Peggy Camille Duncan; and
- (5) Councillor Randolph in memory of Donna Marie Jordan Cushingberry, Dean Morris Jewel, Francis J. "Jimmy" Kriech and Brad Hopper; and
- (6) Councillor Mansfield in memory of Staff Sergeant Jeremy W. Doyle.

Councillor Borst moved the adjournment of this meeting of the Indianapolis City-County Council in recognition of and respect for the life and contributions of Father Clarence R. Waldon, Roger Deppe, Mary Luzar, Sam Oslos, Matthew Dillane, Dick Suekawa, Harvey Ray,erson, Sr., Peggy Camille Duncan, Donna Marie Jordan Cushingberry, Dean Morris Jewel, Francis J. "Jimmy" Kriech, Brad Hopper, and Staff Sergeant Jeremy W. Doyle. He respectfully asked the support of fellow Councillors. He further requested that the motion be made a part of the permanent records of this body and that a letter bearing the Council seal and the signature of the President be sent to the families advising of this action.

There being no further business, and upon motion duly made and seconded, the meeting adjourned at 10:56 p.m.

We hereby certify that the above and foregoing is a full, true and complete record of the proceedings of the regular concurrent meetings of the City-Council of Indianapolis-Marion County, Indiana, and Indianapolis Police, Fire and Solid Waste Collection Special Service District Councils on the 29th day of August, 2005.

In Witness Whereof, we have hereunto subscribed our signatures and caused the Seal of the City of Indianapolis to be affixed.

President

ATTEST:

Clerk of the Council

(SEAL)

